

TITLE 5

BUSINESS LICENSING

Chapter 1 BUSINESS LICENSES

5-1-1. Unlawful to Transact Business Without a License.

It shall be unlawful for any person, whether as principal or agent, clerk or employee, either for himself or for any other person, or for any body corporate, or as an officer of any corporation, or otherwise, to commence or carry on any business, trade, calling, profession or occupation in this ordinance specified in Sandy City, without first having procured a license from said City so to do or without complying with other regulatory ordinances now existing, or complying with any and all regulations of such business, trade, calling, profession or occupation, contained in this title; and the carrying on of any business, trade, calling, profession or occupation mentioned in this title without first having procured a license from said City to do so, or without complying with any and all regulations of such business, trade, calling, profession or occupation contained in this title, shall constitute a separate violation of this title for each and every day that such business, trade, calling, or profession or occupation is so carried on.

5-1-2. Liability.

The amount of any license imposed by this title shall be deemed a debt to Sandy City and any person, firm or corporation carrying on any business, trade, calling, profession or occupation mentioned herein, without having a license from said City so to do, shall be liable to an action in the name of said City in any Court of competent jurisdiction for the amount of license by this title imposed on such business, trade, calling, profession or occupation.

5-1-3. Duties of Business License Section.

- (a) It shall be the duty of the Business License Section to prepare and issue a license under this title for every person, firm or corporation liable to pay a license hereunder and to state in each license the period of time covered thereby, the name of the person, firm or corporation to whom issued, the business, trade, calling, profession or occupation licensed and the location, or place of business where such business, trade, calling, profession or occupation is to be carried on. All such licenses shall be signed by the Mayor of Sandy City and Business

License Coordinator.

- (b) Transferability. No license granted or issued under any provision of this title shall be transferable except under the following conditions:
 - (1). A license may be transferred to another location if:
 - A. The licensee makes application for such transfer stating the new location and date of transfer; and
 - B. The new location has been inspected by and passes all the requirements of the appropriate departments, as determined by the business license Coordinator, including but not limited to the Sandy City Fire Department, Building and Safety Division, Planning Division and Salt Lake County Health Department; and
 - C. The appropriate fees are paid, including inspection fees and transfer fees.
- (c) The Business License Section shall make a charge of Three Dollars (\$3.00) for each duplicate license issued to replace any license issued under the provisions of this title which has been lost or destroyed. In no case shall any mistake made by the Business License Section in stating the amount of a license prevent or prejudice the collection by the City of what shall be actually due from any one carrying on a business, trade, calling, profession or occupation, subject to a license under this title. The Coordinator shall keep an alphabetical list of the licenses issued, stating the number, name of applicant, time, place and kind of business, and the amount paid, with such remarks as may be considered necessary.

5-1-4. Application and Licensing Procedure.

- (a) Application for any license provided by this chapter shall be initiated by filing a written application on a form to be specified and provided by the Business License Section,, and payment in advance of the entire fee as provided by this ordinance. If, for any reason, the license applied for is not granted, the fee paid shall be refunded to the applicant, with the exception of one-fourth (1/4) the amount being retained to cover handling costs.
- (b) No license shall be approved by the Mayor or the Mayor's designee until the Chief of Police, the Fire Chief, Chief Building Inspector, Licensing Section have reviewed the said application and made their recommendations. Such review and recommendation shall be, in all cases, returned to the Business License Section.
- (c) Upon receipt of the hereinabove required recommendations and approvals, the Coordinator shall submit the said application with recommendations attached to the Mayor or the Mayor's designee. The Mayor or the Mayor's designee shall make his determination within ten (10) working days of the date of the complete

application was filed with the Business License Section..

- (d) If the application is granted, the Coordinator shall issue a license as provided by this ordinance.
- (e) Repealed.

5-1-5. Temporary Permits.

Notwithstanding other provisions to the contrary, the City Recorder may issue a non-redeemable Temporary Permit to do business under the terms of this section. Such temporary permit shall not be valid for more than sixty (60) days and shall be issued only if the following conditions are met:

- (a) A delay in granting a license for a new business exists because of requirements for inspections and research by the staff of Sandy City or that the developer, lessor, builder, seller, or any other person other than the applicant is causing a delay which precludes the issuance of the business license and there is no significant reason to delay the opening of such business. When such temporary permit is issued, the applicant shall sign an agreement of understanding that the temporary permit is for a time not to exceed sixty (60) days and cannot be extended or renewed.
- (b) When it appears on the face of the application or otherwise that there is no basis for the denial of a business license other than the fact that the applicant has been doing business without a license under innocent mistake of fact, being unaware of his duty.
- (c) Repealed.
- (d) Repealed.
- (e) Temporary permits may be issued to seasonal sales such as, but not limited to, pumpkin sales, Christmas tree sales, flowers for Memorial Day, and other sales associated with holidays.

(f) The fees to be charged for such permits shall be established by resolution of the City Council.

5-1-6. Assessment.

Upon receipt of approval of an application for a license, the Coordinator shall assess the amount due thereupon and shall mail notice of such assessment to the applicant at the address shown upon the application, and shall state in the notice of assessment the date upon which the amount assessed shall become due.

5-1-7. Paid in Advance.

- (a) All license fees shall be paid in advance in legal currency of the United States, at

the office of the City Treasurer.

- (b) A separate license must be obtained for each branch establishment, or separate place of business in which the business, trade, calling, profession or occupation is carried on, and for each separate kind of business, trade, calling, profession or occupation and each license shall authorize the party obtaining it to carry one, pursue, or conduct only that business, trade, calling, profession or occupation described in such license, and only at the location or place of business which is indicated thereby.
- (c) Business licenses shall be renewed annually in conformance with the following schedule:
 - (1) Business licenses for building contractors and building subcontractors will be renewed for a six month period only upon January 1, 1979, and, upon the expiration of the six month renewal, shall become subject to an annual renewal as of July 1 of each year, such renewal to be effective from July 1 until June 30 of the next succeeding year.
 - (2) Home occupation licenses shall be renewed on the last day of March of each year, such renewal to be effective until the last day of February of the next succeeding year.
 - (3) All other business licenses issued by Sandy City shall be renewed upon the 1st day of January of each year and shall be effective until the last day of December of that year.
- (d) The Business Licensing Section of the City is charged with the responsibility of mailing a renewal notice to each business at least fifteen (15) days prior to the date upon which the license must be renewed.
- (e) No greater or lesser amount of money shall be charged or received for any license than is provided in this ordinance. License fees for business licenses issued for less than a full year shall be computed on a pro-rata basis. The computation for pro-rata payments shall be made by dividing the amount of the entire annual license fee which would be due by 12 and multiplying that amount by the number of months remaining in the license year. Any portion of a month shall be considered as a full month in computing the pro-rata license fee.

5-1-8. License Fees - When Due - Penalties for Late Payment or Nonpayment.

- (a) All license and renewal fees and the date for payment thereof shall be established by ordinance or by resolution of the City Council.
- (b) Any such licensing or renewal fees not paid when due they shall be considered delinquent and the following penalties shall be charged:

- (1) Failure to pay within 30 days of the due date - Twenty-five percent of the normal fee shall be charged in addition to the normal fee.
 - (2) Failure to pay within 45 days of the due date - Fifty percent of the normal fee shall be charged in addition to the normal fee and the twenty-five percent penalty in subsection (1) above.
 - (3) Anyone doing business before having applied for or received approval of a business license shall be charged one hundred percent of the normal fee in addition to the normal fee.
- (c) Failure to pay any license, renewal or late fee when due is a misdemeanor.
- (d) The applicant may appeal any late fee charged pursuant to this section through the administrative appeal process. Information concerning the appeal process shall be available from the Business License Coordinator upon request.

5-1-9. Display of License.

Every person, firm or corporation having a license under the provisions of this chapter, and carrying on a business, trade, calling, profession or occupation at a fixed place of business, shall keep such license posted and exhibited while in force, in some conspicuous part of said place of business. Every person having such a license, and not having a fixed place of business, shall carry such license with him at all times while carrying on the trade, calling, profession or occupation for which the same was granted. Every person, firm or corporation having a license was granted. Every person, firm or corporation having a license under the provisions of this title shall produce and exhibit the same when applying for a renewal thereof, and whenever requested to do so by any police officer, or by an officer authorized to issue, inspect or collect licenses.

5-1-10. Powers of Police and Fire Department.

All Sandy City Police Officers and Sandy City Firemen are hereby appointed inspectors of licenses, and in addition to their several duties are hereby required to examine all places of business and persons in their respective patrols liable to pay a license, and to see that such licenses are taken out, and shall have and exercise the power:

- (a) To enter free of charge, at any time, any place of business for which a license is required by this title and to demand the exhibition of such license for the current term by any person engaged or employed in the transaction of such business and if such person shall then and there fail to exhibit such license, such person shall be liable to the penalty provided for violation of this ordinance; and
- (b) To cause a complaint to be filed against all persons violating any of the provisions of this ordinance.

5-1-11. Evidence of Liability to Pay License.

- (a) In any action brought under or arising out of the provisions of this chapter, the

fact that a person represents himself as engaged in any business or calling for transaction of which a license is required by ordinance, or that such person or persons exhibited a sign indicating such business or calling, shall be prima facie evidence of the liability of such person to pay for a license.

- (b) The conviction and punishment of any person for transacting any business, trade, calling, profession or occupation without a license, shall not excuse or exempt such person from the payment of any license due or unpaid at the time of such conviction, and nothing shall prevent a criminal prosecution for any violation of the provisions of this title.

5-1-12. No Rebate Allowed.

No rebate shall be allowed upon any license unless the licensee shall make application to the Mayor showing good cause. In all cases, the Mayor shall have discretionary power as to what, if any, amount shall be rebated.

5-1-13. Definition.

The term "business" as used in these ordinances, shall include all activities engaged in or caused to be engaged in with the object of gain or economic profit, but shall not include the acts of employees rendering service to employers.

5-1-14. Exemptions.

- (a) Persons engaged in the following activities shall be exempt from the provisions hereof relative to the securing of licenses and payment of license fees and taxes, to-wit:
 - (1) A farmer engaged in the production of crops, livestock and other agricultural products and in the sale exclusively of agricultural products by him.
 - (2) Any church, club or other charitable or non- profit association or organization.
 - (3) An employee working in the service of an employer.
 - (4) A person who can demonstrate, by appropriate medical or institutional proof, that the said person is disabled and is thereby restricted to the type of work or occupation in which he can be engaged and should therefore be allowed an exemption as set forth herein.
- (b) General contractors or sub-contractors who are engaged in contract work in Sandy City, who do not have offices in Sandy City, who have offices within the Salt Lake County area in a jurisdiction which has reciprocal licensing for contractors with Sandy City, and who have current valid state and local licenses from the jurisdiction in which their office is located shall be exempt from the provisions hereof.
- (c) The provisions of this section shall be applied only to individuals so engaged and

shall not apply to a partnership, corporation, or other business organization.

5-1-15. General Business License.

Except as otherwise provided in this chapter, any person, firm or corporation engaged in business in Sandy City shall pay such fees as may be set by resolution of the City Council in order to obtain a license to do business in the City.

5-1-16. Definition of Employee.

For the purpose of this ordinance, the term "employee" shall not include the proprietor, partner or owner of a business actively engaged in the management and operation thereof. In case there is no owner or partner actively engaged in the management of a business, but the business is managed and operated by a paid manager, then in that event one person only as manager shall be excluded from the number of employees for the purposes hereof. In computing the number of employees for the purposes of this section, persons employed for regular part-time work shall be included and each seasonal or temporary employee shall be counted as one-half (1/2) of a full employee.

5-1-17. Reports.

Every person subject to the license defined in Section 16, shall, on or before January 15 of each year, file with the Business License Section of Sandy City, a statement in writing signed by him of the number of full-time regular and part-time employees employed by such person during the calendar year immediately preceding the date of filing such statement. The license fees for the calendar year wherein such statement is filed shall be assessed on the basis of the maximum number of persons in regular employment during the previous calendar year.

5-1-18. Audit - Corrections.

All license fees and report shall be subject to audit and correction at the close of any calendar year and the Coordinator, or deputies or assistants authorized by him, may examine the records of employment of any person engaged in business within Sandy City for the purpose thereof.

5-1-19. Revocation of Licenses.

- (a) The Mayor or Mayor's designee may in their discretion deny any application for a license or at any time suspend or revoke any license which has heretofore been issued, unless otherwise specifically provided for by ordinance subject to the provisions set forth below.
- (b) It shall be unlawful for any person whose application for license is denied or whose license has been suspended or revoked to carry on or continue to conduct any business, trade, profession or calling for which said license has been denied, suspended or revoked, until such suspension is terminated by order of the Mayor or the Mayor's designee or by complying with the provisions of the next

succeeding paragraph of this section.

- (c) No person who has been denied a license or whose license has been revoked under the provisions of this ordinance and no person associated or connected with such person in the conduct of such business shall be granted a license to carry on the business, trade, calling, profession or occupation for which the said license was denied or revoked until he again makes application for a new license fee as is required by ordinance.

5-1-20. Classification.

- (a) All business, persons and occupations, the licensing of which is contemplated by Section 1 herein and not exempt by Section 14 herein, shall be deemed to fall into at least one of the following classifications. The classification of each person of business shall be decided by the Coordinator. In so doing, he shall take into consideration the kind, nature, and purpose of services offered by the business and the goods sold or delivered and the nature of the sale and delivery as considered in the context of the normal course of business. Where any given business may fall into two or more classifications due to the combination of two businesses in one entity or the nature of the business engaged in being easily classified into two or more kinds, the said business shall be classified as the one requiring the higher inspection fee.
- (b) Classifications: (Base fee - \$30.00 plus number of employees and number of inspections required per year)
 - (1) Retail establishments - offering for sale goods to the public at large.
 - (2) Contractors - both General and Subcontractors whether performing service only or supplying labor and materials in the building or related trades.

General Contractor-\$30
Subcontractor-.....\$10
 - (3) Home Occupation - as defined in the Sandy Land Development Code.
 - (4) Professionals - Doctors, Lawyers, Morticians, Chiropractors, Accountants, etc.
 - (5) Wholesale and Warehouse establishments - where goods are either stored for a fee or are offered for sale to retail establishments.
 - (6) Manufacturing establishments - where goods are made, constructed, or fabricated either in finished or unfinished form for sale on a wholesale or retail basis or for shipment to others.
 - (7) Miscellaneous Services - including but not limited to repair work, delivery of

goods, garbage collection, taxi, beauty shops, day care, dog kennels, etc.

- (8) Food establishments - where foods are prepared, served or sold for consumption on the premises including but not limited to drive-inns, restaurants and taverns.
- (9) Repealed.
- (10) Amusement establishments - including but not limited to billiards or pool halls, swimming pools, skating rinks, arcades, etc.
- (11) Beer and Liquor establishments - base fee plus fees provided in the Liquor ordinance.
- (12) All other business not otherwise classified.

5-1-21. Inspections, Fees.

In addition to the fees aforesaid and provided, inspections shall be conducted and fees paid in advance for businesses classified as follows:

- (a) Classifications 1,3,5,7,8 and 12
 - 1 inspection required per year.....\$25.00
- (b) Classification 6
 - 2 inspections required per year.....\$50.00
- (c) Classifications
 - 3 inspections required per year.....\$75.00
- (d) Classifications 10, 11
 - 4 inspections required per year.....\$100.00

5-1-22. Amount of Fee and Type of Business to be Licensed Fixed by Resolution.

The City Council shall by resolution fix the amount of license fees and terms and conditions thereof and determine the types of businesses to be licensed.

5-1-23. Mayor to Determine if More Than One License is Required.

Notwithstanding Section 7 of this ordinance, if a person desires to engage in a business which may include two or more businesses as classified herein, the Mayor shall have the discretionary power to determine whether or not he shall be obligated to obtain a license for each of the said types of business or only for that class of business which includes his principal business. In exercising such discretion, the Mayor must give all businesses in similar

circumstances the same treatment.

5-1-24. Public Health.

Any person engaged in a business of manufacturing, handling or processing of food or perishable items shall have written approval from the Salt Lake Valley Health Department. Any license may be revoked at any time for non-compliance with the City/County Health and Sanitary Ordinances or Regulations.

5-1-25. Denial and Revocation of Licenses - Applicant to be Heard.

If the Coordinator determines that facts exist for denial, suspension, or revocation of a license under this ordinance, the Coordinator shall notify the applicant or licensee (respondent) in writing, by certified mail to the most current business address or other mailing address on file with the Business License Section or by personal delivery, of the intent to deny, suspend, or revoke the license, including the grounds therefor. Within ten (10) working days of receipt of such notice, the respondent may provide to the Mayor, in writing, a response that shall include a statement of reasons why the license or permit should not be denied, suspended, or revoked. Within five (5) working days of the receipt of the respondent's written response, the Mayor or his designee shall notify the respondent of the hearing date on respondent's denial, suspension, or revocation proceeding.

Within ten (10) working days of the receipt of respondent's written response, the Mayor (or a hearing officer appointed by the Mayor) shall conduct a hearing at which the respondent shall have the opportunity to present all of respondent's arguments and to be represented by counsel and present evidence and witnesses on his or her behalf, and cross examine any of the City's witnesses. The City may also revoke the license. If a response is not received by the Coordinator in the time stated, or, if after the hearing the Mayor or his designee finds that grounds as specified in this ordinance exist for denial, suspension, or revocation, then the Mayor or his designee shall issue a written opinion within five (5) working days after the hearing and send the same, by certified mail, to the respondent. Such denial, suspension, or revocation shall become final five (5) days after the notice is sent. Such notice shall include a statement advising the applicant or licensee of the right to appeal such decision to a court of competent jurisdiction.

If the Mayor or his designee finds that no grounds exist for denial, suspension, or revocation of a license then within five (5) days after the hearing, the Mayor shall order the Coordinator to immediately withdraw the intent to deny, suspend, or revoke the license, and shall so notify the respondent within writing by certified mail of such action and shall contemporaneously issue the license.

5-1-26. Home Occupation.

REPEALED.

5-1-27. Penalty.

Any person violating any provisions of this ordinance shall be guilty of a class B

misdemeanor.

5-1-28.

Notwithstanding any provision of this ordinance to the contrary, all licensing approvals, denials, transfers, suspension, revocations and similar actions under this title shall be decided by the Mayor or his designee, and not by the City Council, except that approvals, renewals and transfers of Class C beer licenses are subject to approval by the City Council.

5-1-29. Obscene conduct in places of business, suspension or revocation of license.

It shall be unlawful for any owner, operator, manager or lessee, or any agent, partner, associate or employee of such owner, manager or lessee, of any place of business, the business of which is licensed and regulated by Sandy City, to allow or permit an entertainer, employee, patron or any other person to appear in or on said place of business naked, or in indecent attire or lewd dress except in such business licensed as Nude Entertainment Businesses pursuant to the Sexually Oriented Business License Ordinance or to make any obscene exposure of his or her person.

Chapter 2 ALCOHOLIC BEVERAGE REGULATIONS

5-2-1. Definitions.

- a. Alcoholic beverage means and includes "beer" and "liquor" as they are defined herein.
- b. Application means a formal written request for the issuance of a permit or license.
- c. Beer, "light beer", "malt liquor" or "malted beverage" means all products which contain 63/100 of 1% of alcohol by volume or 1/2 or 1% of alcohol by weight, but not more than 4% of alcohol by volume or 3.2% by weight, and are obtained by fermentation, infusion, or decoction of any malted grain. Beer may or may not contain hops or other vegetable products.
- d. Entertainer means all dancers, impersonators, and all persons performing any entertainment, whether paid or unpaid, for patrons of premises licensed under this chapter.
- e. Licensed premises means any room, house, building, structure or place occupied by any person licensed to sell beer or licensed to allow the consumption of liquor on such premises under this title. Multiple beer or liquor dispensing facilities located in one building and owned or leased by one licensed applicant shall be deemed to be only one licensed premises, provided that each dispensing point must be designated and the appropriate fee paid and the license prominently

displayed at each dispensing point.

- f. Liquor means alcohol, or any alcoholic, spiritus, vinous, fermented, malt or other liquid or combination of liquids, a part of which is spiritus, vinous, or fermented, and all other drinks or drinkable liquids, which contain more than 1/2 of 1% of alcohol by volume which is suitable to use for beverage purposes; except that the term liquor shall not include any beverage defined as beer, malt liquor, or malted beverage that has an alcohol content of less than 4% alcohol by volume.
- g. Minor means any person under the age of 21 years.
- h. Nuisance means any room, house, building, structure, place or licensed premises, where:
 - (1) Alcoholic beverages are manufactured, sold, kept, bartered, stored, given away or used contrary to the laws of the State of Utah or this chapter, or where persons resort for drinking alcoholic beverages contrary to the laws of the State of Utah or this chapter; or
 - (2) Any persons are allowed to perform or simulate sexual intercourse, masturbation, oral copulation, anal copulation, bestiality, flagellation or any sexual acts prohibited by law; or
 - (3) Any persons are allowed to simulate or actually touch, caress or fondle breasts, buttocks, anus or genitalia; or
 - (4) Any persons are allowed to actually display or simulate the display of pubic hair, buttocks, vulva, anus, genitalia or female breasts below a point immediately above the top of the areola; or
 - (5) Minors are permitted to purchase or drink alcoholic beverages; or
 - (6) Laws or ordinances are violated by licensee or his agents or patrons upon such premises or upon leaving such premises which tend to affect the public health, peace, morals, welfare, comfort or safety.
- i. Package agency means a retail liquor location operated under a contractual agreement with the State of Utah Department of Alcoholic Beverage Control, by a person other than the state, who is authorized by the Utah Alcoholic Beverage Control Commission to sell package liquor for consumption off the premises of the agency.
- j. Person includes any individual, firm, partnership, corporation, association, business trust or other form of business enterprise, including a receiver or trustee and the plural as well as the singular in number, unless the intent to give a more limited meaning is disclosed by the context.
- k. Place of business shall include cafes, restaurants, public dining rooms, cafeterias, taverns, cabarets and any other place where the general public is invited or

admitted for business purposes, and shall be deemed to include private clubs, corporations and associations operating under charter or otherwise wherein only the members and their guests are invited. Occupied hotel and motel rooms that are not open to the public shall not be deemed to be places of business as herein defined.

- l. Private Club means any nonprofit corporation operating as a social club, recreational, fraternal, athletic or kindred association organized primarily for the benefit of its stockholders or members.
- m. Public place means and refers to any of the following which are open to and generally used by the public: streets, roads and alleys of incorporated cities and towns; state or county highways or roads; buildings and grounds used for school purposes, and public dance halls and adjacent grounds; any place of public resort or amusement; lobbies, halls, and dining rooms of hotels, restaurants, theaters, stores, garages, and service stations; any public conveyance and its depots and waiting rooms which are open to unrestricted use and access by the public; publicly owned bathing beaches, parks or playground; and all other places which under this title have been declared to be a public place.
- n. Residence means and includes any building or part of a building where a person resides, but shall not include any part of a building which is not actually and exclusively used as a private residence, nor any part of a hotel other than a private guest room, nor a club or any part thereof, nor any place from which there is access to a club or hotel through a street or lane or other open and unobstructed means of access, nor any portion of a building used in part for business purposes unless such portion is separated from the part used for business purposes by a wall or walls having no doors or other means of access opening into such part used for business purposes.
- o. Restaurant means a place of business where a variety of foods are prepared and complete meals are served to the general public, located on a premises having adequate culinary fixtures for food preparation and dining accommodations, and whose primary purpose is the service of meals to the public.
- p. Retailer means any person engaged in the sale or distribution of alcoholic beverages to the consumer.
- q. Sell, Sales and To Sell means any transaction, exchange, or barter whereby, for any consideration, an alcoholic beverage is either directly or indirectly transferred, solicited, ordered, delivered for value, or by any means or under any pretext is promised or obtained; whether done by a person as a principal, proprietor, or as an agent, servant, or employee, unless otherwise defined in this title or the rules adopted by Sandy City or the State Alcoholic Beverage Control Commission.
- r. State Store means a facility for the sale of package liquor located on premises

owned or leased by the State of Utah and operated by state employees. This term shall not apply to restaurants, private clubs, or package agencies.

5-2-2. License Required.

- a. It shall be unlawful for any person to engage in the business of the retail sale of beer within the City without first procuring a license therefor as provided in this Chapter. A separate license shall be required for each place of sale.
- b. It shall be unlawful for any person to operate any association, establishment, restaurant, club or similar business which allows customers, members, guests, visitors or other persons to possess or consume alcoholic beverages on the premises without first procuring a license therefor as provided in this Chapter.

5-2-3. License Classification.

- a. Class A License. A Class A license shall entitle the licensee to sell beer in original containers for consumption off the premises in accordance with the Liquor Control Act of Utah and these revised City Ordinances.
- b. Class B License. A Class B license shall entitle the licensee to sell beer for consumption on the premises in conjunction with a meal.
 - (1) Only bona fide restaurants(1), as defined in this chapter, shall be allowed to obtain Class B licenses.
 - (2) Sales of beer shall not be more than 40% of the gross dollar volume of business for any month or months.
 - (3) All holders of Class B licenses shall maintain records which shall disclose the gross sales of beer and the gross sales of food served for consumption on the licensed premises during each and every month of the year. The foregoing sales shall be shown separately in said records and each licensee shall retain all invoices, vouchers, sales slips, receipts, and other records of purchases of beer and food from its suppliers. Such records and supporting data shall be available for inspection and audit at any time following the end of each month and for eighteen months thereafter.
- c. Class C (Tavern) License. A Class C license shall entitle the licensee to sell beer on draft for consumption on the premises or in original containers for consumption on or off the premises and to all the privileges granted to Class B licensees.
- d. Class D License. A Class D license shall entitle the licensee to sell beer at publicly or privately owned lodging facility, authorized recreation facility, social or reception center for consumption on the premises with or without food. Authorized recreation facilities are limited to bowling alleys, golf courses, stadiums, exposition facilities or arenas. The authorized recreation facility or

lodging facility may be operated by the holder of the Class D License or by another person, firm or corporation who has contracted with the licensee as a concessionaire in order to provide refreshments to the patrons of the facility..

Under a Class D license, beer may be sold in the original non-glass containers, or may be transferred into suitable temporary non-glass containers. All sales and deliveries under this license shall be made directly to the ultimate consumer. No beer shall be permitted or consumed except that which is purchased on the premises.

Alcohol sales shall clearly be a secondary or incidental uses on the premises constituting no more than 40% of the gross sales. The consumption of the alcoholic beverages shall be restricted to the patrons of the facility and must be integrated with the primary activity areas of the authorized recreation facility. Beer gardens or separated lounge areas are not permitted with an authorized recreation facility.

- e. Class E License. A class E license shall entitle the licensee to sell beer in original non-glass containers or transferred to non-glass containers for consumption on the premises.
- (1) A Class E license shall be issued for a specific period of time but in no case shall it be valid for more than 30 consecutive days.
 - (2) All holders of Class E licenses must provide controlled access to the facility or location and provide the plans for such access to the Police Department at the time of application.
 - (3) All holders of Class E licenses must provide licensed security personnel for the facility or location and provide the names of such personnel or security agency to the Police Department at the time of application.
 - (4) All materials and refuse accompanying the facility or location must be removed within 7 days after the expiration of the license. Each person seeking a Class E License shall submit to the Sandy City Business Licensing Division a cash deposit, certificate of deposit or surety bond made payable to the City in the amount of \$1000.00 to assure compliance with the provisions of this section, including but not limited to the removal of all materials and the cleaning of the site. In the event the licensee does not comply or remove the materials or clean the site, the City may do so, or cause the same to be done by other persons, and the reasonable cost plus an administrative fee shall be charged against the licensee and his deposit or surety bond.
- f. Consumption License. A Consumption license shall entitle the licensee to permit or allow persons to consume or possess alcoholic beverages on which the seal has been broken.

A Consumption license may be issued only in conjunction with a Class B, C, D or E license issued under this chapter or a license issued by the State Liquor Control Commission and when deemed appropriate in the best interest of the public by the

licensing authority. A temporary consumption license, when issued in conjunction with a Class E beer license, will only be permitted when such consumption is in conjunction with a meal.

The issuance of a Consumption license in conjunction with a Class B, D or E License shall be considered the "Written consent of the local authority" as required in Title 32A, U.C.A. 1953, as amended.

- g. Private Club License. A Private Club License shall be deemed to be the license provided for in Chapter 10, Title 11, U.C.A. 1953, as amended, which entitles the Private Club to hold, store, possess or consume alcoholic beverages, subject to applicable provisions of the Utah Liquor Control Act. This license shall be considered the "Written consent of the local authority" as required in Title 32A, U.C.A. 1953, as amended.
- h. Entertainment License. An entertainment license shall entitle the licensee to perform on premises licensed under this chapter either gratuitously or for compensation subject to the requirements stated hereinafter.
- i. Agency License. An agency license shall entitle the licensee to furnish, book or otherwise engage the services of an entertainer for compensation in or for any establishment required to be licensed under this chapter whether such performer is to be compensated by wages, salary, fees or other compensation; provided however, a person, firm or corporation who employs an entertainer required to be licensed under this chapter solely for the entertainment of its patrons shall not be deemed an agency requiring the purchase of an agency license.

5-2-4. Application For License.

All applications for licenses, for renewal or reissuance of licenses authorized by this chapter shall be filed and verified with the Business License Officer and shall contain the following information:

- a. The name, current address and telephone number of the applicant.
- b. The age and date of birth of the applicant.
- c. The social security number of the applicant.
- d. The state sales tax i.d. number of the applicant.
- e. The citizenship and/or place of permanent residency of the applicant.

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- f. All addresses of the applicant for the previous five (5) years.
- g. All names, addresses and the names of the licensing authorities of all businesses previously owned or operated by the applicant.

- h. The type of license desired.
- i. The location of the premises to be licensed.
- j. A statement verifying that the applicant meets all the requirements of the Utah Liquor Control Act.
- k. A statement verifying that the applicant is of good moral character.
- l. Certificate(s) granted by the Utah Department of Alcoholic Beverage Control, or by adequate proof of the existence of such certificate(s), that each employee of the business engaging in the serving, selling or furnishing of alcoholic beverages for consumption on the premises has completed the Alcohol Training and Education Seminar, as required in Section 32A-17-3(1) U.C.A. 1953, as amended.
- m. A sworn statement signed by the applicant that all the facts included in the application are true.
- n. Any other information that the City may require.

If the applicant is a firm, partnership, association, group, corporation or a person with any other business interest in receiving an Alcoholic Beverage License, the above information shall be provided with respect to each partner, association member or corporate officer and director, the application need only be signed by a single partner, member, corporate officer or person who is indicated as an applicant on the application.

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If the business is to be operated by a person other than the applicant, said operator must join in the application and file the same information required of an applicant. It shall be grounds for revocation of the license for any business required to be licensed by this chapter, to be operated by any person who has not filed his operators information at the time of renewal of the license, or, if operation is assumed during the license period, at least ten (10) days prior to assuming operation of the business.

The application and operators information must be subscribed by the applicant and operator who shall state under oath that the information contained therein is true.

The Business License Officer shall submit copies to the Planning Division, Building Inspection Division, Fire Department, Health Department and Police Department each or any of which may require additional information to assure compliance with relevant ordinances and laws. Only after receiving signed, written approval from each of the entities named in this Section, the Business License Officer shall be authorized to prepare a certificate of license for the Mayor's signature. The certificate of license shall contain the following information:

- (1) The person's name to whom the certificate is issued;
- (2) The type of license issued;

- (3) The expiration date of the license;
- (4) The place of business licensed.

All applicants who are beginning a new business shall also comply with all applicable general business licensing requirements.

5-2-5. Qualifications Of Licenses.

No Class A, B, C, D, or E License, Consumption License or Private Club License shall be granted unless the applicant is age 21 or over, of good moral character and a citizen of the United States or a permanent resident of the United States (Alien registration card required). Nor shall any said license be issued to anyone who is not of good moral character.

If the applicant is a firm, partnership, association, group, corporation or any other business entity, each partner, association member, corporate officer and director or other person having ownership interest in the business that is applying for an Alcohol Beverage license shall meet all of the foregoing restrictions as if such individuals were the applicant.

The operator or person having management responsibility shall also meet all of the foregoing restrictions.

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5-2-6. Fees.

The amount of the fees required to obtain the licenses and identification cards set forth in this chapter shall be established by resolution of the City Council.

5-2-7. Bonds.

- a. Every applicant for a license under this chapter shall post a cash or surety bond in the amount of two thousand dollars (\$2000.00), which is to remain in effect during the entire license period. The bond is in addition to all other licensing fees or bonds. It shall be forfeited in the event of a violation by the licensee or an employee of the licensee related to the operation of the business for which the licensee has obtained said license or for a violation of any laws or ordinances relating to alcoholic beverages (except selling beer to a minor); controlled substances; gambling; committing or maintaining a nuisance; keeping a disorderly house or if the license is revoked. After said forfeiture, prior to the licensee reopening the business, the licensee shall again post a cash or surety bond in the amount of \$2000.00 which is subject to the same terms as specified herein.
- b. If any licensee hereunder or any employee of a licensee commits a violation of any ordinance or law concerning selling beer to a minor or comparable charge, the licensee, within ten (10) days of receipt of written notice from the City of said disposition shall post a cash bond of \$150.00 with the City. This bond shall be forfeited to the City upon any subsequent violation by the licensee or an

employee of the licensee for selling beer to a minor or comparable charge.

Following the forfeiture of the \$150.00 bond, the licensee shall, within ten (10) days of receipt of written notice from the City, again post a cash bond of \$300.00 which amount shall be forfeited if the licensee or an employee of the licensee shall commit a violation of any ordinance or law concerning selling beer to a minor or comparable charge and the beer, consumption and private club license may be suspended for a period of ten to thirty days.

Following the forfeiture of the \$300.00 bond, the licensee shall, within ten (10) days of receipt of written notice from the City, again post a cash bond of \$500.00 which amount shall be forfeited if the licensee or an employee of the licensee shall thereafter commit a violation of any ordinance or law concerning selling beer to a minor or comparable charge and the license may be suspended or revoked.

These bonds shall be in addition to all other fees and bonds required by the City.

- c. If a licensee is required to post the afore- described bond and if neither the licensee nor any employee of the licensee illegally sells beer to a minor within two years following the posting of said bond, the bond shall be returned to the licensee by the City.
- d. Failure of the licensee to post the bond required by this section shall be grounds for the suspension or revocation of the licensee's license.
- e. The forfeiture of three bonds posted pursuant to this section shall be grounds for revocation of the license.
- f. All monies received by the City from the forfeitures of bonds shall be deposited in an account to be used for alcoholic beverage enforcement purposes.

5-2-8. Renewal And Transfer Of License.

- a. Every license granted to an establishment pursuant to the terms of this ordinance shall be renewed after its expiration only if the applicant can affirmatively show that the qualifications and standards as previously set forth and upon which the original license was granted shall have been and shall be complied with continually.
- b. No license granted under the provisions of this chapter shall be transferable to any other person or location.

5-2-9. Issuance Or Denial Of License.

A granting of a license under the provisions of this ordinance shall not be considered or deemed a right and, if granted, shall inure to the benefit of the licensee only as a privilege temporarily granted. The City reserves the right to deny any application for a license described

herein. If, on an application for a license, the Business License Officer finds that any applicant does not meet the requirements of or is disqualified under any section of this Chapter, or if he finds that the application is deficient in any way or any of the facts provided thereon are false or in question, he shall deny the application.

The applicant may appeal the said denial to the Mayor who may appoint an administrative hearing officer to hear such appeal. The applicant must file a written appeal with the Mayor within ten (10) days of the decision by the Business License Officer, and must pay an appeal fee as established by resolution of the City Council.

5-2-10. Suspension and Revocation of License.

- a. Basis. Licenses may be suspended or revoked by the Mayor for any of the following reasons:
 1. Violation on the licensed premises of any provision of this chapter; or
 2. Violation of any other ordinance or law related to alcoholic beverages; or
 3. The licensee does not now possess the qualifications required by this title and the statutes of the State of Utah; or
 4. False or incomplete information given on an application; or
 5. The licensee has obtained or aided another person in obtaining a license by fraud or deceit; or
 6. The licensee has failed to pay property taxes, utility tax or sales tax; or
 7. Violation by the licensee or any of his employees of any city ordinance or state or federal statute, except minor traffic offenses, while on the premises or relating to the business; or
 8. Failure to pay the license fee or post bonds when due; or
 9. Violation of city ordinance or federal or state statute relating to the business, alcoholic beverage, consumption, entertainment or agency licenses and resulting from the conduct of such business or activity; or
 10. Any conduct or act of the licensee or his employees or any act committed by him or them on the premises or any act by his patrons where such business is conducted tending to render such business or such premises where the same is conducted a nuisance, a public nuisance or a menace to the health, peace or general welfare or the city or its inhabitants; or
 11. The licensee has refused to allow authorized representatives of the City to make an inspection or has interfered with such representative while in the performance of his duty in making such inspection; or
 12. The licensee is not complying with a requirement or condition set by the

Planning Commission or Community Development Department, if applicable, under a conditional use permit or site plan review approval; by the Board of Adjustment or Community Development Department, if applicable, granting a variance or special exception; by the City Council; or by agreement; or

13. Any other reason expressly provided for in this Chapter.

- b. The licensee shall be responsible for the operation of the business in conformity with the ordinances of the City and the laws of the State and it shall be grounds for revocation of the license if a violation of said ordinance or law occurs through an act of a licensee, operator, employee, agent, or person who is allowed to perform for patrons of the business, whether or not said person is paid by the licensee for said performance, or any person who violates said ordinances or laws with the consent or knowledge of licensee or his agents or employees or operator of the business.
- c. Recommendation. The City shall cause written notice to be given to the licensee of the recommendation to suspend or revoke a license, the reason for such recommendation and the licensee's right to have a hearing concerning the City's recommendation. Written notice shall be given by personal service or by registered mail or by mail, postage prepaid, to the address given by the licensee on his most recent application or renewal of his license.
- d. Hearing.
 - 1. A hearing must be requested by the licensee by filing a written notice of the request for hearing with the Mayor's Office within 15 days of receipt of the notice of the recommendation for suspension or revocation.
 - 2. The hearing shall be before the Mayor, or an administrative hearing officer designated by him, and shall be at a time, place and day set by the Mayor, but not later than 15 working days after receipt of the request for hearing.
 - 3. At the hearing the City shall present the reasons/evidence for the recommendation to suspend or revoke the license.
 - 4. The licensee, in person or through his or her attorney, may then present any evidence showing reason why the City's recommendation is in error.
 - 5. All witnesses shall be sworn to testify truthfully. Either party is entitled to confront and cross-examine any witnesses.
 - 6. Any oral or documentary evidence may be received, but the Mayor or his designee may exclude all privileged, irrelevant, immaterial or unduly repetitious evidence.
 - 7. If the recommendation for suspension or revocation was based on a finding by the Planning Division, Building Inspection Division, Fire Department, Health

Department or Police Department that the business was or would be in violation of their applicable ordinances or regulations, then this determination shall be conclusive on the Mayor and his decision may be based only on whether the City acted properly in recommending suspension or revocation of the license because of the said department's determination.

8. The Mayor, after hearing and considering all the evidence, shall suspend, revoke, affirm or affirm with conditions the license. The decision shall be made within 10 days after the hearing.
9. The decision of the Mayor may be appealed by the licensee to the District Court within 30 days from when the written decision is made.

5-2-11. Application After Suspension or Revocation.

- a. A suspension shall be for a period not exceeding twelve months. After expiration of the suspension period, the license may be reinstated, if the licensee otherwise complies with all licensing requirements. If the license would have otherwise expired during the period of the suspension, the licensee will not be entitled to apply for a renewal license until after the period of suspension has expired and will be required to pay the full license fee.
- b. A revocation shall be for a period of no less than twelve months. Upon revocation of the license, the licensee shall forfeit to the City the following:

1. The remaining license fee paid; and
2. The \$2,000.00 bond posted to insure compliance with the law; and
3. Any bond posted as a result of sale of beer to a minor.

A licensee shall not be entitled to reapply for a new license during the period of revocation.

- c. If the licensed business is sold to a new party, not previously associated with the licensee under suspension or revocation, the new owner of the business may apply for and may be granted a license under the same review process as set forth above, including complying with all licensing and zoning requirements, notwithstanding the current revoked or suspended status of the former licensee.

5-2-12. Requirements For Class C Licenses.

All licensing approvals and renewals of Class C licenses are subject to the review and approval by the City Council.

5-2-13. Requirements for Employees and Entertainers.

- a. Identification Cards. From and after January 1, 1989 all employees who handle, dispense or serve alcoholic beverages, all bouncers, doormen or other

security-type employees and all entertainers, except members of a band, in Class C or Private Club licensed premises, before engaging in the duties of their employment in or on the licensed premises, shall register with the City Police Department upon a form to be provided by the department. They shall submit to finger printing and photographing by the Department.

The Police Department shall provide each such person an identification card within a reasonable time after receipt of an application, unless it finds one or more of the following:

1. The applicant is under 21 years of age.
2. The applicant is overdue in payment to the City of any taxes, fees, fines or penalties assessed against the applicant or imposed on the applicant in relation to alcoholic beverages, alcoholic beverage establishments or employees and entertainers therein.
3. The applicant has failed to provide information reasonably necessary for investigation and issuance of the license or has falsely answered a material question or request for information as authorized by this ordinance.
4. The applicant has been convicted of a violation of a provision of this Title within two years immediately preceding the application; however, the fact that a conviction is being appealed shall have no effect on the denial.
5. The premises in which the applicant is to be employed does not have a current valid business and alcoholic beverage establishment license.
6. The fees established herein have not been paid.
7. The applicant is in violation of or not in compliance with this ordinance.
8. The applicant has been convicted of or entered a plea of nolo contendere for any felony involving controlled substances, alcohol, sex crimes, contributing to the delinquency of a minor or any violent felony or has completed serving a sentence for such felony (whichever is most recent) within five years or a misdemeanor involving controlled substances, alcohol, sex crimes or contributing to the delinquency of a minor within three years.

Said identification card must be carried on the person of such employee at all times while working in the licensed premises. A person registered under this Section, upon changing employment shall notify the City Police Department in writing of that fact.

Any person whose application is denied may appeal to the Chief of Police, in writing, within fifteen days from the date of denial, revocation or suspension. If after review, the Chief of Police also denies the card or upholds the suspension or revocation, the applicant may then appeal to the Mayor in the manner set forth in Section 5-2-9.

The Mayor may revoke or suspend a registration card for a violation of any of the provisions of this ordinance including the failure to continually comply with provisions 1 through 8 above in the manner set forth in Section 5-2-10.

Unless revoked or suspended, each identification card issued pursuant hereto shall remain valid for a period of two years. Identification cards must be renewed by the applicant after the expiration of two years from the date of issuance by following the same procedure as established herein.

- b. Training. Every employee of a Class B, C, D, E, Consumption or Private Club licensee engaging in the serving, selling or furnishing of alcoholic beverages for consumption on the premises must complete the Alcohol Training and Education Seminar, as required in Sec. 32A-17-3(1), within 6 months of commencing employment.
- c. Age.
 - (1) In a Class A and B licensed premises, all employees handling, selling or otherwise engaging in the retail sale of beer must be at least eighteen (18) years of age unless otherwise regulated by law.
 - (2) In Class C, D, E, Consumption or Private Club licensed premises, all employees, handling, selling or otherwise engaging in the retail sale of beer must be at least twenty-one (21) years of age.
- d. Licensee Responsibility. It is the duty of the holder of a Class C, D or E license, Consumption license, or Private Club license to verify that any such person employed or entertaining on their premises is in compliance with these requirements. Any holder of a Class C, D or E license, Consumption license or Private Club License that permits a violation of this section either personally or through his agents, employees, officers or assigns shall be subject to suspension or revocation of his license.

5-2-14. Illegal Sale, Manufacturing, Storage Etc. of Alcoholic Beverages.

It shall be unlawful for any person, except as provided by this chapter or state statute, to knowingly have in his possession any alcoholic beverage, or to manufacture, sell, offer, import, carry, transport, advertise, distribute, give away, dispense or serve any alcoholic beverage.

5-2-15. Possession of Liquor.

It shall be unlawful, except as provided by this chapter or state statute for any person to have or keep for sale or possess any liquor which has not been purchased from a State Liquor Store or package agency.

5-2-16. Taking Liquor Unlawfully.

It shall be unlawful, except as provided by city ordinance or state statute for any person

within the City, by himself, his clerk, employee, or agent to attempt to purchase, directly or indirectly or upon any pretense or upon any device, to purchase or in consideration of the sale or transfer of any property, to take or accept any alcoholic beverage from any other person.

5-2-17. Adulterated Alcoholic Beverage.

It shall be unlawful for any person, for any purpose whatever, to mix or permit or cause to be mixed with any alcohol beverage offered for sale, sold or supplied by him as a beverage, any controlled substance or any form of methyllic alcohol or any crude, unrectified or impure form of ethyllic alcohol or any other deleterious substance or liquid.

5-2-18. Sale of Alcoholic Beverage to Intoxicated Person.

It shall be unlawful for any person to sell or supply any alcoholic beverage or to permit any alcoholic beverage to be sold or supplied to any person under, or apparently under, the influence of an alcoholic beverage.

5-2-19. Supplying Alcoholic Beverages to Minors.

It shall be unlawful for alcoholic beverages to be given, sold or otherwise supplied to any minor, but this shall not apply to the supplying of any liquor to such person for medicinal purposes by the parent or guardian of such person or to the administering of liquor to such person by a physician in accordance with state statute.

5-2-20. Permitting Drunkenness.

It shall be unlawful for any person to:

- a. permit drunkenness to take place in any herein licensed premises, of which he is the owner, licensee or employee; or
- b. permit or suffer any person apparently under the influence of an alcoholic beverage to consume any alcoholic beverage in any herein licensed premises, of which the first named person is owner, licensee or employee; or
- c. give, permit or suffer to be given any alcoholic beverage to any person apparently under the influence of an alcoholic beverage.

5-2-21. Canvassing and Soliciting Prohibited.

It shall be unlawful for any person to canvass or solicit orders for alcoholic beverages by mail, telephone, or any other manner and said person is hereby prohibited from engaging in said activities except to the extent that such prohibition may be in conflict with the laws of the United States or the State of Utah.

5-2-22. Unlawful Importation and Transportation.

It shall be unlawful for any person to order or purchase or to ship or transport or cause to be transported into Sandy City or from one place to another within Sandy City any alcoholic

beverages or to sell or furnish any alcoholic beverage to any person within Sandy City when such alcoholic beverage is intended by any person interested therein to be received, possessed, sold or in any manner used in violation of the law.

5-2-23. Aiding or Abetting.

It shall be unlawful for any person to aid, abet, counsel or procure any unlawful sale, unlawful purchase, unlawful gift or other unlawful disposition of alcoholic beverages, or to act as agent or representative of the seller in procuring or effecting unlawful sale or purchase of any alcoholic beverages. Nothing in this chapter shall be construed as prohibiting any person from purchasing alcoholic beverages contrary to the provisions of this act when acting as the agent of the authorities charged with the enforcement of this act in the detection and conviction of violators.

5-2-24. Hours for Sale of Alcoholic Beverages.

It shall be unlawful for any licensee, operator or employee of a Class B, C or D Beer licensed premise to sell or offer for sale beer, to any customer, guest or any other person on premises licensed under this chapter between the hours of 1:00 a.m. and 10:00 a.m.

It shall be unlawful for any licensee, operator or employee of a Class A Beer licensed premise to sell or offer for sale beer, to any customer, guest or any other person on premises licensed under this chapter between the hours of 1:00 a.m. and 7:00 a.m.

It shall be unlawful for any licensee, operator or employee of "Class B with Liquor Consumption" licensed premise to sell or offer for sale liquor, to any customer, guest or any other person on premises licensed under this chapter between the hours of 12:00 midnight and 12:00 noon. It shall be unlawful for any licensee, operator or employee of "Class B with Liquor Consumption" licensed premise to sell or offer for sale beer, to any customer, guest or any other person on premises licensed under this chapter between the hours of 1:00 a.m. and 10:00 a.m.

It shall be unlawful for any Private Club License holder, operator or employee to sell or offer for sale liquor, to any customer, guest or other person between the hours of 1:00 a.m. and 10:00 a.m., except Sundays and holidays where it shall be unlawful to sell or offer for sale any liquor between the hours of 12:00 midnight and 12:00 noon the following day. It shall be unlawful for any Private Club License holder, operator or employee to sell or offer for sale beer, to any customer, guest or other person between the hours of 1:00 a.m. and 10:00 a.m.

At the discretion of any alcohol licensee, customers, guests or any other person who purchased alcohol before the restricted hours, may be permitted to consume alcohol for up to one hour after restricted sale hours.

Hours for the sale and consumption for any Class E Beer and/or liquor consumption will be determined by Mayor's Cabinet, the Business License Official and the State Alcohol Control Commission.

Amended Ord. 93-48, 11/23/93, PUBLISHED 12/9/93.

5-2-25. Purchase or Consumption Prohibited in Unlicensed Premises.

It shall be unlawful for any person to purchase or consume any alcoholic beverage in an unlicensed place of business.

5-2-26. Entertainment.

It shall be unlawful for:

- a. Any person to perform as an entertainer on premises licensed under the provisions of this chapter either gratuitously or for compensation without first obtaining a license therefor;
- b. Any person to furnish, book or otherwise engage the services of an entertainer for compensation in or for any establishment required to be licensed under the provisions of this chapter whether such entertainer is to be compensated by wages, salary, fees or other compensation, without having first obtained an agency license; provided, however, a person who employs an entertainer required to be licensed under this chapter solely for the entertainment of its patrons shall not be deemed an agency requiring the purchase of an agency license;
- c. Any person to furnish, book or otherwise engage or permit any person to perform as an entertainer, either gratuitously or for compensation, when such entertainer at the time of such booking, employment or performance, was not licensed under the provisions of this chapter.
- d. An entertainer to perform with or among the patrons of an establishment, or upon the tables or chairs or in any part of an establishment other than on a stage, platform, or dance floor, which is separated on all sides from the aisles, tables, chairs, booths and the patrons of said establishment by at least 3 feet.
- e. An entertainer, while performing pursuant to the provisions of this chapter:

AMENDED Apr.16, 1991, PUBLISHED May 2, 1991.

1. It shall be unlawful and constitute an offense of strict liability for any such dancer or entertainer or other person to enter said place of business naked or so clothed as to expose at any time of appearance the genitals, pubic area, anus or female nipple or areola.
2. To touch in any manner any other person, to throw any object or clothing, to accept any money, drink or any other object from any other person, or to allow another person to touch said entertainer or to place any money or object on said entertainer or within the costume or person of said entertainer.
3. To perform or simulate any of the Specified Sexual Activities as defined by the Sexually Oriented Business License ordinance §12-2-5(u) or any sexual act prohibited by law;

- f. Any person or any patron of any establishment to touch in any manner any entertainer, to place any money or object on or within the costume or person of any entertainer, or to give or offer to give to any such entertainer any drink, money or object while the entertainer is performing.
- g. AMENDED Apr. 16, 1991, PUBLISHED May 2, 1991.
 - 1. It shall be unlawful and constitute a violation or strict liability for any owner, operator, manager, licensee, lessee, or any agent of said business licensed for the sale or consumption of an alcoholic beverage on the premises in Sandy City to allow or permit any dancer, entertainer or other person to appear in or on said place of business nude or semi-nude or so clothed as to expose in any way the genitals, pubic area, anus or female nipple or areola of said dancer, entertainer or other person.
 - 2. It shall be unlawful for any person to permit an entertainer to violate any provision of this chapter.
- h. Violation of this Section 5-2-26 shall be grounds for suspension or revocation of the license or licenses of the establishments where violations occur.

AMENDED Apr. 16, 1991, PUBLISHED May 2, 1991.

5-2-27. Advertising.

In Class B, C, D, Consumption, or Private Club licensed premises there shall be no signs or advertising visible from the exterior of the licensed premises indicating that the establishment offers alcoholic beverages for sale or consumption.

5-2-28. Persons Allowed on Premises.

In Class C, D, or Private Club licensed premises, no persons under the age of twenty-one (21) years shall be allowed in or upon that portion of the licensed premises in which alcoholic beverages are sold or consumed.

5-2-29. Inspections.

The Police Department shall be permitted to have access at all times to all premises licensed or applying for a license under this chapter, and shall make periodic inspections of said premises. Said inspections may be made with or without prior notice and in uniform or plain clothes.

5-2-30. Nuisance.

It shall be unlawful for the licensee, his employees, agents, operators, entertainers or patrons to commit, maintain or permit to be committed or maintained a nuisance as defined herein.

5-2-31. Responsibility for Conduct of Patrons.

It shall be the duty of any licensee under the provisions of this chapter to take such steps as may be necessary to assure that the conduct of all employees, agents, operators, entertainers and patrons conform to the provisions of the City Ordinances and state and federal laws while on the licensed premises and any failure by the licensee to do so, whether he has actual knowledge or not, shall be grounds for suspension or revocation of any license granted hereunder.

5-2-32. Enforcement.

A violation of any provision of this chapter shall be a class B Misdemeanor.

Chapter 3	REPLACED BY NEW CHAPTER 2 IN 1988.
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Chapter 4 ENTERTAINMENT ARCADES AND DEVICES

5-4-1. Purpose.

The City Council of Sandy City has determined, based upon concerns expressed by parents and residents of the community, that the regulation of arcades and entertainment devices will be beneficial to the peace, safety and welfare of the residents of Sandy City.

5-4-2. Definitions.

For the purposes of this chapter, the following words shall have the meanings as defined herein:

- (a) "Arcade" means any business establishment which has 5 or more amusement devices.
- (b) "Amusement device" means any amusement machine or device, whether mechanically or electronically operated, by means of the insertion of a coin, token or similar object, for the purpose of amusement or skill and for the play of which a fee is charged, or a device similar to any such machine or device but which has been manufactured, altered or modified so that operation is controlled without the insertion of coin, token or similar object. The term does not include coin operated phonographs, ride machines designed primarily for the amusement of children or vending machines in which are not incorporated features of chance or skill.
- (c) A "musical device" means a music box or other device, the purpose of which is to furnish music for the entertainment of the patrons or guests of said place of business, which box or device, whether mechanically or electronically operated, operates by means of the insertion of a coin, token or similar object and shall include any box or device which has been manufactured, altered or modified so that the operation is controlled without the insertion of a coin, token or similar object.

5-4-3. License Required.

- (a) It shall be unlawful for any person to operate within Sandy City an arcade without first having obtained a license therefor.
- (b) It shall be unlawful for any person to have or maintain in any place of business in Sandy City an amusement device or a musical device without first obtaining from the City a license for said device.

5-4-4. Fees.

The amount of the fees required to obtain the licenses as set forth in this chapter shall be

established by resolution of the City Council.

5-4-5. Maximum Number of Machines.

No arcade or other business establishment shall have or maintain any amusement device or musical device without first complying with the provisions of the Life Safety Code as adopted by Sandy City.

5-4-6. Compliance with Chapter.

- (a) It shall be the duty of any person or business having an amusement device or musical device to assure compliance of the business establishment with the terms of this chapter.
- (b) All persons or businesses having amusement devices will have, during the hours of operation, a person designated as the responsible party on the premises and available upon request. The Chief of Police may require arcades to provide attendants and/or uniformed security guards. All responsible persons, attendants and guards shall be 18 years or older.

5-4-7. Limitation on Age.

It shall be unlawful for any licensee to permit, suffer or allow any student under the age of 18 years to use or operate any amusement device or musical device located in or upon the licensed premises during the hours from 9:00 a.m. to 2:30 p.m. during such time as public, elementary, middle or high schools are in session.

5-4-8. Gambling Prohibited.

Nothing in this chapter shall in any way be construed to authorize, license or permit any gambling device whatsoever or any other illegal device to be allowed upon any licensed premises.

5-4-9. Hearing Prior to Suspension or Revocation of License.

- (a) The Mayor may suspend, revoke or refuse to renew any license issued under the terms of this chapter for any of the following causes:
 - (1) Fraud or misrepresentation in its procurement.
 - (2) Violation or failure to comply with all of the provisions of this chapter.
 - (3) Upon failure to pay any license fee levied when due.
 - (4) Upon the violation of any city ordinance, state or federal statute involving moral turpitude.
 - (5) Any conduct or act of the licensee or his employees or any act permitted by him or them on the premises where such business is conducted tending to

render such business or such premises where the same is conducted a public nuisance or a menace to the health, peace or general welfare of the City.

- (6) A violation of city ordinance or federal or state statute relating to the business or activity licensed and resulting from the conduct of such business or activity.

- (7) For good cause shown.

(b) Hearing.

- (1) Before the Mayor shall suspend, revoke or refuse the renewal of any license, he shall first afford the licensee an opportunity in a hearing to show good cause why such license should not be suspended, revoked, or why such license should be renewed.
- (2) The licensee shall be given notice of such hearing, which notice shall indicate the time, place and date of such hearing; statement of the purpose of such hearing; and a reasonably definite statement setting forth the causes, grounds or basis or any complaint. Such notice shall either be personally served on or mailed to the address of the licensee indicated in his last application filed, at least ten (10) days before the date fixed for the hearing.
- (3) At the hearing, the licensee or applicant shall have the right to appear personally and/or by counsel; to cross-examine witnesses appearing; to produce evidence and witnesses in his behalf.
- (4) After such hearing, on due deliberation, the Mayor shall notify the licensee of his findings and determination.

Chapter 5 SWAP MEETS AND FLEA MARKETS

5-5-1. Definition.

A swap meet licensee is any person who rents, lends or leases his premises to temporary sellers for use as a market place to barter and exchange goods. A "flea market" shall be considered a swap meet.

5-5-2. License Required.

It shall be unlawful for any person, firm, corporation, or charity to hold a swap meet or flea market without having first obtained a license therefor as is herein provided. The license fee may be waived as provided in Section 5-1-14.

5-5-3. Application - Investigation.

Application for a swap meet license shall be made to the City Recorder and shall state thereon the name of the applicant, the place of business, the nature of the business, the place of residence of the applicant, the applicant's date of birth, and the number of employees intended to be engaged. The Chief of Police shall investigate each applicant for such license and shall report to the City Recorder whether or not such applicant is a person who has been convicted of the offense of receiving stolen goods or of burglary, larceny, or robbery, and the license of any swap meet licensee so convicted shall be revoked.

5-5-4. Fee.

The annual fee for a swap meet license shall be that prescribed in Section 5-1-6.

5-5-5. Right to Issue Daily Business License Permits.

A swap meet licensee shall have the right to issue daily business license permits to sellers upon receiving the required \$1.00 per-sale-day fees and the signed, certified license applications listing the goods to be sold or exchanged. It shall be unlawful for any swap meet licensee to fail to deliver on the day of application to the Sandy City Police Department a legible and accurate copy of the records required under this ordinance with the seller's daily business license permit fee.

5-5-6. Records.

Every swap meet licensee doing business in the City shall keep a record of all sellers wishing to utilize his premises. This record shall contain:

- (a) A description of the seller, including:
 - (1) Name, including middle initial

- (2) Address
 - (3) Sex
 - (4) Nationality
 - (5) Height
 - (6) Weight
 - (7) Color of hair
 - (8) Color of eyes
 - (9) Driver's license number and State of Issue
 - (10) Occupation
- (b) A description of the seller's vehicle including:
- (1) Make
 - (2) Model
 - (3) Year
 - (4) Color
 - (5) License number and State
 - (6) Registered owner if different than person offering articles for sale or exchange;
- (c) A description of articles offered for sale, including:
- (1) Name of article
 - (2) Size
 - (3) Color
 - (4) Serial number or ID mark
- (d) The number of a seller's sales tax permit, if any.
- (e) The number of a seller's daily business license permit.
- (f) The date a seller has applied to sell on.

5-5-7. Seller's Application for License and Fee.

All sellers shall apply for a license to sell on the premises of a swap meet licensee. Along with the fee of \$1.00 per sale day, each seller must furnish to the swap meet licensee a signed statement containing the required information outlined in this ordinance along with the

certification:

"I certify that I am the lawful and legal owner of the listed property which is free and clear from all liens and encumbrances. I further certify that the property descriptions are true and correct and I am aware that the use of a fictitious name or furnishing false information on this form is punishable by law. I am also aware that a copy of this application shall be forwarded to the Sandy City Police Department within 24 hours after it is submitted to the owner or manager of the premises where the sale is held."

Upon receiving the required fee and certified application form, the swap meet licensee shall furnish to the seller a daily business license permit which will allow the seller to sell on the day requested, subject to revocation by an authorized representative of Sandy City.

5-5-8. Time of Sales.

Resident Sellers must apply for a daily business license permit at least seven (7) days in advance of the day they wish to utilize a swap meet licensee's premises. Nonresident sellers must apply for a daily business license permit at least fourteen (14) days before the date they wish to utilize a swap meet licensee's premises. The swap meet licensee shall employ, at his own expense, a uniformed Police Officer, during the conduct of the swap meet, which officer shall enforce the provisions of this ordinance in conjunction with the Sandy City Police Department. For purposes of this ordinance, a resident is deemed to be a person or entity either domiciled or qualified to do business in the State of Utah.

5-5-9. Sales Subject to Law.

All sales shall be in accordance with law. No sales of firearms, alcoholic beverages or medicines shall be made without obtaining the required permits or licenses under State statute.

5-5-10. Ordinances Posted.

It shall be unlawful for any person to conduct a swap meet unless he shall keep conspicuously posted in his place of business copies of this ordinance and Section 27-38-2, Utah Code Annotated, dealing with lost property converted by a finder.

5-5-11. Lists of Lost or Stolen Property.

The Sandy City Police Department shall circulate a list of reported lost and stolen property to all swap meet licensees.

5-5-12. Stolen Goods.

It shall be the duty of every swap meet licensee to report to the Sandy City Police Department any article he has reason to believe was stolen, or lost and found by the person attempting to sell it.

5-5-13. Penalties.

In addition to other penalties provided by law, any person violating the provisions of this chapter shall be guilty of a misdemeanor. No seller shall be deemed to have substantially complied with these provisions if:

- (a) he fails to list all property proposed to be sold or exchanged, or
- (b) he fails to list the correct serial number or identifying mark(s) of said property; or
- (c) he gives false information as to his identity or the property's identity even though such information is not specifically required by this chapter.

5-5-14. Liability of Principal.

The holder of a swap meet license is liable for any and all acts of his employees, and for any violation by them of the provisions of this ordinance.

5-5-15. Revocation of License.

In addition to other penalties provided by law, any swap meet licensee violating the laws and ordinances of Sandy City may have his license revoked or suspended.

5-5-16. Pawnbrokers and Secondhand Dealers.

No swap meet licensee shall conduct the business of pawnbroker or secondhand dealer without having obtained the licenses required for such dealers in addition to his swap meet license.

Chapter 6 ITINERANT MERCHANTS - Repealed.

Chapter 7 PUBLIC DANCE HALLS

5-7-1. Public Dance Hall Defined.

- (a) The term "public dance" as used in these ordinances shall mean any dance to which admission can be had by payment directly or indirectly of a fee or any dance to which the public generally may gain admission with or without the payment of a fee.
- (b) The term "public dance hall" as used herein shall mean any room, place, or space in which a public dance shall be held or in which classes in dancing are held.
- (c) The word "person" shall mean and include natural persons, co-partnerships, corporations and associations and shall include members of both sexes.
- (d) The term "non-public dances" shall mean dances conducted and sponsored by a public or private school, church or other organization for the benefit of the students or members thereof, even though an admission fee may be charged, and dances conducted in private homes on a private basis, and such dances shall not be deemed to be public dances and shall be exempt from the licensing provisions of this chapter.

5-7-2. Public Dance Halls to be Licensed.

- (a) It shall be unlawful to hold or conduct any public dance in any public dance hall or other place within the limits of the City until such dance hall or other place in which the same may be held shall first have been duly licensed.
- (b) No license for a public dance shall be issued until it shall be found that the place for which it is issued complies with and conforms to all laws, ordinances, health and fire regulations applicable thereto and is properly ventilated and supplied with separate and sufficient toilet facilities for each sex and is a safe and proper place for the purpose for which it shall be used. Every person to whom a dance hall license is issued shall post the same in a conspicuous place in the dance hall covered by such license.
- (c) The City Council shall have, pursuant to the provisions of this ordinance and the general police power, the authority to establish such rules and regulations as may be necessary for the proper operation of a public dance hall within the City and shall publish and establish any such rules and regulations in order to properly protect the health, welfare and safety of the residents of the City.

- (d) The license fee for a license issued pursuant to the provisions of this chapter shall be in such an amount as may be set forth by resolution of the Sandy City Council.
- (e) No license issued under the provisions of this chapter shall be transferable.

5-7-3. License May be Revoked.

- (a) The license of any public dance hall may be revoked upon the violation of any provisions of this or any other ordinance, law, rule or regulation promulgated thereunder as may relate to such public dance hall.
- (b) In the event that any such license is revoked, no new license shall be issued nor shall a previous license be renewed until the applicant therefor shall have submitted a new application and complied with each and every provision of the application procedure as it applies to the provisions of this chapter.
- (c) If at any time the license of a public dance hall shall be revoked, at least three months shall elapse before another license or permit shall be granted to the manager, owner or lessee of such dance hall and such renewal of a business license shall be granted only after a public hearing before the City Council.

5-7-4. Dance Hall Permitted in Certain Zones.

- (a) A public dance hall or a public dance shall be a permitted use in the City-Center Zone and the Highway-Commercial Zone. Such use shall be subject to all provisions of this chapter and to all other applicable provisions of the Sandy City Ordinances.
- (b) A public dance hall and public dance shall be a conditional use in the Community-Commercial Zone, the C-3 Zone, and C-2 Zone. No permit or license shall be issued pursuant to the provisions of this chapter in any of the just previously mentioned zones until such time as such use shall have been approved by the Sandy City Planning Commission and the Sandy City Council.
- (c) A public dance hall or a public dance shall not be permitted in any other zone than those mentioned in subsection (a) and subsection (b) of this section.

5-7-5. Unlawful to Permit Indecent Acts in Public Dance Hall.

It shall be unlawful for any person to whom a public dance hall license is issued or for any person conducting a public dance hall or public dance under permit from the City to allow or permit in any dance hall any indecent act to be committed or any disorder or conduct of a gross, violent or vulgar character. Any member of the Police Department or other properly constituted authority shall have the power and the duty to cause any public dance hall to be vacated whenever any provision of this ordinance, regulation or law concerning public dance halls has been or is being violated or wherein any ordinance, regulation or law of any character shall be violated, or whenever any indecent act shall be committed or when any disorder or conduct of a

gross, violent or vulgar character shall take place therein.

5-7-6. Minimum Space Requirements.

No license shall be issued to a public dance hall unless there shall be at least 300 square feet of suitable dancing area in the licensed premises, such area to be in addition to the walkways, seating area and other areas not designed nor used for dancing. This section shall not pertain to those areas contained within a dance studio that may be used solely for dance instruction at all times and never for other public dancing.

5-7-7. Unlawful to Permit Persons Under Sixteen Years of Age in Public Dance Halls.

- (a) It shall be unlawful to permit any person who has not reached the age of sixteen years to attend any public dance or remain in any public dance hall, unless such person be accompanied at all times by his parent or legal guardian. It shall be unlawful for any person to represent himself to have reached the age of sixteen years in order to attend any public dance or remain in any public dance hall when he in fact is under sixteen years of age, and it shall be unlawful for any person falsely to represent himself to be a parent or legal guardian of any person in order that such person may attend any public dance or remain in any public dance hall.
- (b) The provisions of subsection (a) as above set forth shall not apply to a "matinee" dance held upon a licensed premises. A "matinee" dance shall be a dance which shall conclude no later than 6:30 p.m. of the day upon which said dance was first begun and all participants of the said "matinee" dance shall be required to leave the licensed premises prior to the resumption of the regular business activities of those licensed establishments. A "matinee" dance may be attended by persons no younger than twelve years of age and all other provisions of this chapter and other ordinances of this City shall be enforced and remain in effect.

5-7-8. Unlawful to Permit Dancing After 1:00 A.M.

It shall be unlawful for any person to conduct or maintain any public dance or public dance hall or, having charge or control thereof, to conduct, carry on or permit any dance or dancing therein between the hours of 1:00 a.m. and 6:00 a.m. of any day or upon any Sunday. It shall be the duty of any licensee hereunder to post in a conspicuous manner and place the curfew laws of the State of Utah and of Sandy City so as to give notice to persons frequenting a public dance or public dance hall of the existence thereof.

5-7-9. Pass-out and Return Checks not Allowed.

No pass-out or return checks shall be issued for use by persons who leave the public dance hall or its ante-rooms and all persons leaving the public dance hall or its ante-rooms shall be required to pay the regular admission fee in case of return to such public dance hall. Each public dance hall must be under such control of the management thereof that this section may be

reasonably complied with.

5-7-10. Prohibited Activities.

It shall be unlawful:

- (a) For any person to bring, possess, or consume, any beer or other alcoholic beverage in or upon premises licensed under the provisions of this chapter.
- (b) For any person to bring, possess, use or consume any controlled substance, as defined by the laws of the State of Utah and the ordinances of Sandy City, in or upon premises licensed under the provisions of this chapter.
- (c) For any person to smoke any cigarette, pipe, or other tobacco in or upon premises licensed under the provisions of this chapter unless such cigarette, pipe, or other tobacco is smoked in an area designated and specifically constructed for that purpose. It shall be the duty of any operator of any dance hall or public dance to assure that all provisions of the laws of the State of Utah and ordinances of Sandy City are followed up with regard to the smoking of cigarettes, pipes or other tobacco.

5-7-11. Inspections of Dance Halls.

- (a) The Police Chief shall designate some member of his department or other suitable person to examine each application to determine whether or not the public dance hall sought to be licensed conforms with the regulations, ordinances and laws applicable thereto. The findings of such inspection shall be made in writing and shall be accompanied by a recommendation. Inspectors, including personnel from the Police and Fire Departments, shall be permitted to have access to all public dance halls, and all public dances at all times and shall investigate complaints and shall inspect the said premises at least once every three months. Inspectors shall be charged with the enforcement of this ordinance and shall have, when desired, the assistance of any department of the government of the City in performing any of the duties delegated by this chapter.
- (b) The licensee shall pay to the City the sum of Seventy-Five Dollars (\$75.00) for such inspections, such inspection fee to be in addition to any license fees as may be required under this chapter or by other provisions of the ordinances of this City.

5-7-12. Prohibition as to Advance Ticket Sales.

It shall be unlawful for any operator, licensee or owner of any public dance hall located in Sandy City to sell, transfer or otherwise convey any ticket, pass, coupon or other evidence of admission to a public dance or a public dance hall in advance of the specific date upon which such admission shall be allowed. No "season pass" or other such admission for more than one specific date shall be sold, transferred, or conveyed.

5-7-13. Dance Halls to be Lighted.

It shall be unlawful for any person conducting or maintaining a public dance hall or public dance to conduct any dance or dancing after sunset of any day unless the hall be lighted in such a manner as to measure at least one candle power at a distance of five feet above the level of the floor before any person is admitted thereto and before any dance or dancing is commenced therein, and such lighting shall be maintained thereafter without diminution and without interruption throughout the entire time while such dance or dancing is in progress and until such dancing is concluded and such hall is cleared and closed.

5-7-14. Adequate Supervision Required.

Any owner, licensee, or operator of a public dance hall or public dance in Sandy City shall be required to provide adequate supervision of any activity which shall take place pursuant to the privilege granted by a license issued under the provisions of this chapter. In the event that any such owner, licensee or operator does fail to provide such supervision, such failure shall be considered as good cause for revocation of a license granted under the provisions of this chapter.

5-7-15. Walkathons Prohibited.

It shall be unlawful for any person to conduct or maintain any walkathon, marathon, or any other exhibition of human endurance to which the public is admitted as spectators and it shall be unlawful for any person to attend any walkathon, marathon or any other exhibition of human endurance conducted in connection with the license issued pursuant to the provisions of this chapter.

5-7-16. Application for License; Issuance of Permit.

- (a) Any person desiring a license to keep or conduct a public dance hall or public dance shall make application to the City Recorder who is authorized to issue a license and permit only after investigation and recommendation as set forth in Section 5-7- 10. In the event that any such application receives an adverse recommendation with regard to the issuance of such license, no license or permit shall be issued unless and until the City Council shall, after a public hearing thereon, order such license and permit to be issued.
- (b) In addition to any other investigation or inspection as may be required hereunder, the applicant shall submit to the City the name, address and birth date of all owners, employees, and other persons associated with the public dance hall for which the license is being requested. Such information shall then be given to the Chief of Police who shall inform the office of business regulation as to whether or not any such employee, owner, or other person connected with the public dance hall shall have a record of conviction of an offense involving a controlled substance, of an offense involving alcoholic beverages, or of any offense involving moral turpitude.
- (c) In the event that any owner, licensee or operator of any public dance hall which is

the subject of a license application under the provisions of this chapter shall be found to have been convicted within the just previous ten years of any offense involving a controlled substance, alcoholic beverages, or moral turpitude, the application of which the said person is a party shall be denied.

5-7-17. Notice and Hearing Required Before Revocation.

- (a) No license issued under the provisions of this chapter shall be revoked nor any application for license under the provisions of this chapter be denied, except after notice to and hearing of the said license or applicant.
- (b) If at any time a license under the provisions of this chapter is denied or revoked, it shall thereafter be unlawful for any person to operate, open, maintain, manage or conduct any public dance or public dance hall at the same premises until a new license shall be granted by the City.
- (c) No provision of this section or other provision of this ordinance shall prohibit the City and its duly authorized officials from taking such action as may be deemed by them to be necessary for the preservation of the public health, safety and welfare.

Chapter 8 COUPONS, COUPON BOOKS AND DISCOUNT CARDS

5-8-1. Coupons, Coupon Books or Discount Cards. License Required.

It shall be unlawful for any person, either by telephone, door-to-door solicitation or in any other manner, to sell or attempt to sell or to otherwise dispose of or distribute coupons, coupon books containing coupons or discount cards for valuable consideration which are exchangeable in whole or in part for services, tickets, admissions, goods, wares or merchandise without being licensed to do so.

5-8-2. Application.

Each person desiring a license under this chapter shall make application therefor to the City Business Licensing Office and shall state thereon his name and business address and the name, address and social security number of every person employed by the applicant in this City who attempts or shall attempt to sell or otherwise dispose of coupons, coupon books or discount cards and such other information shall be included as may be required by the Business License Office to enable it to properly enforce the provisions of this chapter. Such information shall include, but not be limited to, a review by the City Attorney of the coupons, coupon book or discount card, and of the contracts upon which the said coupons, coupon book or discount card is based.

5-8-3. License Fee.

The license fee for a license required by this chapter shall be established by resolution of the Sandy City Council.

5-8-4. Bond and Notice Required.

- (a) At the time application is made for a license, the applicant shall file with the City Treasurer:
 - (1) A cash bond for two thousand dollars (\$2,000), or
 - (2) A corporate surety bond issued by a corporate surety authorized to do business in the State of Utah in the sum of \$2,000.

The bond shall run to Sandy City and to any person injured or damaged by reason of any misrepresentation, fraudulent act or failure to perform as promised on the part of any person involved in the sale, distribution or redemption of coupons, coupon books, or discount cards.

- (b) Each coupon, coupon books and discount cards sold or distributed under the provisions of this chapter shall have clearly printed thereon its expiration date, if

any, or if none, an affirmative statement so stating.

- (c) All coupons, coupon books or discount cards sold or distributed under the provisions of this chapter shall have clearly printed upon the said coupon book or discount card or attached to individual coupons a statement that said coupons, coupon book or card is covered by a bond on file with Sandy City, detailing the person and acts covered by said bond as described in this section.
- (d) Any person making a claim upon a cash bond filed with the City shall submit in writing a statement of the claim, which statement shall be investigated by the Legal Department and a recommendation made as to whether or not payment should be made out of the funds held by the City on the bond. After such recommendation has been made, the City Council shall make a determination as to the City's response to the claim so made and any such determination by the City Council shall be final.
- (e) All cash bonds shall be held for a period of one year beyond the expiration date of the last coupon contained in the coupon book, or, if there is no expiration date, for a period of five years; said cash shall be deposited in the treasury of Sandy City and no interest shall be paid thereon by the City to the depositor.
- (f) No corporate surety bond shall be cancelled prior to the 31st day of December of the year in which the last coupon or card expires.

5-8-5. Replacement of Employee.

If any person employed by the applicant or licensee of a coupon book license under this chapter is replaced by another person, the applicant or licensee shall immediately furnish the City Business License Office with the name, address and social security number of the replacement employee, together with sufficient evidence that such replacement employee is covered by the bond required by the preceding section.

5-8-6. Coupon Sales by Charitable Organizations.

None of the above provisions relating to coupon sales shall apply to religious, eleemosynary, charitable or non-profit fund-raising organizations, provided that a coupon, coupon book or discount card so distributed by such group or organization shall have been licensed in accordance with the provisions of this chapter.

5-8-7. Distribution to Charitable Organizations.

Every person holding a valid coupon book license who distributes coupon books or coupons or discount cards to charitable or civic groups shall maintain records which shall include the name and responsible party and the number of coupons or coupon books or cards distributed, consigned or sold to each such charitable organization. Said record shall be available for inspection and audit by the City Business License Department or the City Recorder at any time upon request.

5-8-8. Revocation of License.

The City Recorder shall, upon reasonable notice and after hearing and other procedures as set forth in Chapter 1 of this title, be empowered to revoke the coupon book license of any person who shall violate any of the provisions of this chapter.

5-8-9. Penalty.

- (a) It shall be unlawful, and punished as a class B misdemeanor, for any person or agent of any person to conduct business in Sandy City prior to being issued a license to do so.

**Chapters 9, 10, 11 AND 12 REPLACED BY NEW CHAPTER 2 IN
1988.**

Chapter 14 AUCTIONEERS AND AUCTIONS

5-14-1. Limit of Scope of Chapter.

The provisions of this chapter shall not be applicable to auction sales conducted by trustees or referees in bankruptcy, executors, administrators, receivers, or other public officers acting under judicial process, nor to the sale of real property at auction, nor shall it apply to any auction held for charitable or benevolent purposes or for any church, fair, festival, or bazaar, nor to an auction wherein the general public is not invited nor permitted to participate as bidders, and where the bidding is restricted to wholesalers or retailers purchasing for resale.

5-14-2. Definitions.

For the purpose of this chapter, the following words shall have the meanings as defined in this section.

- (a) Auctioneer. "Auctioneer" is any person who conducts a public competitive sale of property by outcry to the highest bidder.
- (b) Auction house. "Auction house" shall mean a permanent place of business where auctions are conducted and personal property sold at auction.
- (c) Transient auction house. "Transient auction house" shall mean any place, whether indoors or outdoors, located within Sandy City, where any goods, wares, merchandise or articles of value are offered at auction and which is neither the permanent place of business for auction sales nor a permanent business which has an auction sale to dispose of its inventory, furnishings and business equipment as it goes out of business.

5-14-3. Compliance Required for Auction Sales.

No personal property (goods, wares or merchandise) shall be sold at auction in Sandy City, Utah, except in compliance with the provisions of this chapter.

5-14-4. Auctioneer's License Required.

It shall be unlawful to sell or cause or permit to be sold at auction, any personal property (goods, wares, or merchandise) in Sandy City, Utah, unless such sale is conducted by an individual who has obtained an auctioneer's license from the License Department of Sandy City.

5-14-5. Application for Auctioneer's License.

The form on which application shall be made for an auctioneer's license shall require the following information:

- (a) Name of applicant.

- (b) Residence and business address of the applicant.
- (c) The length of time for which an auctioneer's license is desired.
- (d) A statement as to whether or not the applicant holds, or has held, an auctioneer's license from any state, municipality, governing body of licensing authority; a list of such licenses, not to exceed 5 of the most recent licenses, and a statement of the time, place and by whom issued; a statement as to whether any state, municipality, governing body or licensing authority has ever refused to issue or renew an auctioneer's license to the applicant together with a full and accurate statement as to the reasons for any such refusal; and a statement as to whether any state, municipality, governing body or licensing authority has ever revoked an auctioneer's license held by the applicant together with a full and accurate statement as to the reasons for any such revocation.
- (e) A statement as to whether or not the applicant has ever been convicted of any crime, misdemeanor, or violation of any municipal ordinance, and if so, the nature of the offense and the punishment or penalty assessed therefor.
- (f) The names of at least two reliable property owners of the County of Salt Lake, State of Utah, who will certify as to the applicant's good moral character and business responsibility, or in lieu of the names of references, any other available evidence as to the good moral character and business responsibility of the applicant as will enable an investigator to properly evaluate such moral character and business responsibility, except that the City License Department may waive this requirement with respect to an applicant for renewal of an auctioneer's license by an individual holding an unexpired auctioneer's license issued under this chapter who has in a previous application under this chapter complied with this requirement.

5-14-6. Inventory of Sale Articles.

At least fifteen days prior to every auction, a true and correct inventory of items to be sold shall be filed with the License Department of Sandy City. Said inventory shall:

- (a) List the articles proposed to be sold at sale by auction;
- (b) Give any identifying numbers or marks which may be upon the said articles to be sold;
- (c) Indicate opposite the description of each article whether the same is new or used; and
- (d) List each of the said articles described in said inventory with a number; provided, however, that no article need be listed in the said inventory which has a retail value of less than \$5.00. Upon receipt of said inventory, it shall immediately be forwarded to the Police Department for investigation to establish insofar as possible that the property therein listed is not contraband or otherwise illegal for

sale. After said investigation, the police shall issue a written report to the License Department within ten (10) days after receipt of the inventory. It shall be unlawful to sell at auction any item not listed on the inventory as set forth above.

5-14-7. Referral of Application to the Chief of Police.

Before issuing an auctioneer's license to any individual applying therefor, the City License Department shall refer the application to the Chief of Police who shall cause to be made such investigation of the applicant's moral character and business responsibility as he deems necessary for the protection of the public good, except that the City License Department may waive this requirement with respect to an application for renewal of an auctioneer's license by an individual holding an unexpired auctioneer's license issued under this chapter if an investigation of such applicant's moral character and business responsibility has previously been made under this section in connection with a prior application for an auctioneer's license under this chapter. The Chief of Police shall cause the investigation herein provided for to be made within a reasonable time and shall certify to the City License Department whether or not the moral character and business responsibility of the applicant is satisfactory.

5-14-8. Refusal or Revocation of License by License Department.

An auctioneer's license may be revoked by the City License Department or an application for issuance or renewal of such license may be refused by the City License Department, if it is determined, after notice and hearing:

- (a) That the applicant or license holder is not an individual of good moral character and business responsibility; or
- (b) That the application of the applicant or license holder contains false, fraudulent, or misleading material statements; or
- (c) That the applicant or license-holder has made any false, fraudulent or misleading material statement in the course of conducting an auction sale of, or in offering for sale at an auction, any real or personal property, (goods, wares, or merchandise) in Sandy City, Utah; or
- (d) That the applicant or license-holder has perpetrated a fraud upon any person whether or not such fraud was perpetrated in the conduct of an auction in Sandy City, Utah; or
- (e) That the applicant or license-holder has violated any of the statutes of the State of Utah relating to auctions or auctioneers; or
- (f) That the applicant has been convicted of any crime or misdemeanor involving moral turpitude; or
- (g) That the applicant or license-holder has conducted an auction sale, or offered for sale at auction, any real or personal property (goods, wares, or merchandise) in Sandy City, Utah, in an unlawful manner or in such a manner as to constitute a

breach of the peace or a menace to the health, safety or general welfare of the public.

5-14-9. Required Notice of Hearing.

Notice of hearing provided for in the preceding section shall be given in writing to the applicant or license-holder as the case may be. Such notice shall be mailed, postage prepaid, to the applicant or license-holder as the case may be, at his last known address at least five days prior to the date set for hearing. The applicant or license-holder as the case may be, shall have the right to be represented at such hearing by counsel.

5-14-10. Appeal to Mayor.

Any individual aggrieved (2)by the action of the City License Department in refusing to issue any license or in revoking any license or special permit already issued shall have the right to appeal such decision to the Mayor of Sandy City. Such appeal shall be taken by filing with the Mayor, or person designated by him, within fourteen days after notice of the action complained of has been mailed postage prepaid, to such individual's last known address, a written statement setting forth fully the grounds of appeal. The Mayor shall set a time and place for a hearing on such appeal and notice of such hearing shall be given to the appellant in the same manner as provided in the preceding section. The appellant shall have the right to be represented at such hearing by counsel. The decision and order of the Mayor shall be final and conclusive.

5-14-11. Auctioneer's License Fee.

The fees for an auctioneer's license shall be established by resolution of the City Council and said sum shall be prorated in the manner provided for elsewhere in this title.

5-14-12. Bond Required Prior to License Issuance.

- (a) Every applicant for an auctioneer's license shall file with the City Recorder of Sandy City a surety bond running to Sandy City, in the amount of \$10,000.00 dollars with surety acceptable to and approved by the City Attorney conditioned that the said applicant, if issued an auctioneer's license, will comply fully with all the provisions of the ordinances of Sandy City and the statutes of the State of Utah regulating and concerning auctions and auctioneers, will render true and strict accounts of all his sales to any person or persons employing him to make the same, will not practice any fraud or deceit upon bidders or purchasers of property from him at any auction sale or suffer or permit any person in his employ to practice any such fraud or deceit, and will pay all damages which may be sustained by any person by reason of any fraud, deceit, negligence, or other wrongful act on the part of the licensee, his agents or employees in the conduct of any auction or in the exercise of the calling of auctioneer. A liability insurance policy issued by an insurance company authorized to do business in the State of Utah which conforms to the above requirements may be permitted by the City Attorney in his discretion in lieu of a bond. An auctioneer employed by one holding an auction house license or a transient auction house owner's license, in

lieu of filing a bond or certificate of insurance, may file a notarized affidavit from the said license holder that affirms that said applicant is an employee, that the said license holder is responsible for all actions of his employee, and that said employee is covered by a valid bond as above required.

- (b) It shall be unlawful for any auctioneer who files a certificate of employment with an auction house licensee or transient auction house licensee to conduct an auction except under the direct supervision of said licensee.

5-14-13. Issuance of License.

Upon the approval of a proper application form and payment by the applicant of the fees provided in this chapter, and upon the filing by the applicant of the bond required by this chapter, the License Department is authorized to grant or renew an auctioneer's license for any period of time not exceeding one year.

5-14-14. License Non-Transferable.

Neither the license nor the permit granted under the provisions of this chapter shall be transferable, nor shall the same be loaned or used by any other person.

5-14-15. Auction House License Required.

It shall be unlawful for any person to engage in the business of, or keep, conduct or operate an auction house in Sandy City without first obtaining a license to do so and filing a bond as required herein.

5-14-16. License Fee.

The fee for an auction house license shall be established by resolution of the City Council and said sum shall be prorated in the manner provided for elsewhere in this title.

5-14-17. Transient Auction House Owner. License Period.

It shall be unlawful for any person to conduct an auction as a transient auction house owner, without applying for and obtaining a transient auction house owner's license from the City License Department; provided, however, the one who holds an auction house license shall not be required to also obtain a transient auction house license. Further, no person shall be relieved from the provisions of this chapter by reason of a temporary association with any license dealer, trader, merchant or auctioneer, notwithstanding the fact that said parties conduct such temporary or transient auction business in connection with, as a part of, or in the name of any other licensed dealer, trader, merchant or auctioneer.

5-14-18. License Fee.

The license fee for engaging in business as a transient auction house shall be established by resolution of the City Council and shall be payable in advance for each day such business shall continue.

5-14-19. Bond Required.

The applicant for transient auction house license or an auction house shall file with the City Recorder of Sandy City a corporate surety bond acceptable to and approved by the City Attorney in the sum of \$10,000, which bond shall indemnify and run to Sandy City and any person injured or damaged through dealing with each said licensee or their employees and agents and be in full force and effect for the year in which they obtain a license. It shall be conditioned on the fact that if the applicant is issued said license, said licensee will fully comply with all provisions of the ordinance of Sandy City and the statutes of the State of Utah regulating and concerning auctioneers, will render true and strict accounts of all auction sales to any person or persons employing said auctioneer to make the same, will not practice any fraud, deceit or make any material misrepresentations of fact with reference to property or bidders or purchasers of property from any auction sale conducted under the license and will pay all damages which may be sustained by any person by reason of any fraud, deceit, negligence or wrongful act on the part of the licensee, his agents or employees and the conduct of auctioneer in the exercise of the call of auctioneer.

5-14-20. Sale Merchandise Must be Labeled.

Before any sale is made at auction, the licensee must attach to each article to be sold, which has a retail value of five dollars or more, a card with the number of the said article endorsed thereon, so that the number shall correspond to the article as it is described in the inventory on file with the License Department, as hereinabove set forth. No article which has a retail value of five dollars or more shall be sold at auction, other than the merchandise described and set forth in the inventory on file with the License Department as hereinabove required. Where a sale is had at public auction of the stock on hand of any merchant or auction house, in accordance with the provisions of this chapter, such stock shall not be fed or replenished.

5-14-21. False Representation Prohibited.

It shall be unlawful for any auctioneer, when selling or offering for sale at public auction any goods, wares or merchandise, under the provisions of this chapter, while describing said goods, wares or merchandise with respect to character, quality, kind or value or otherwise, to make any fraudulent, misleading, untruthful or unwarranted statements tending in any way to mislead bidders, or to substitute an article sold for another.

5-14-22. Reserved Right of Seller to Bid.

The right to bid may be reserved expressly by, or on behalf of, the seller; provided, however, that notice of such reservation shall be posted, and shall remain posted throughout the auction sale, in a prominent and conspicuous place where the sale is being conducted, in letters large enough to be reasonably visible to any person with normal vision who may attend said sale, reading substantially as follows:

SELLER RESERVES THE RIGHT TO BID ON ANY ARTICLE AT ANY TIME.

5-14-23. Unlawful for Seller to Bid at Sale Without Reserve.

Where notice has not been given that a sale by auction is subject to a right to bid on behalf of the seller, it shall not be lawful for the seller to bid himself or to employ or induce any person to bid at such sale on his behalf or for the auctioneer to employ or induce any person to bid at such sale on behalf of the seller or knowingly to take any bid from the seller or any person employed by him. Any sale contravening this rule may be treated as fraudulent by the buyer.

5-14-24. Buy Bidders Prohibited.

It shall be unlawful for any person to act at any sale by auction as a bidder or booster to buy in behalf of the auctioneer or owner or to increase the price of the article to be sold or to make any false bid.

5-14-25. Continuous Attendance by Licensee Required.

The licensee or, if a corporation, one of the officers of the licensee, shall remain in continuous attendance at any auction.

5-14-26. Representation of Quality Must be Truthful.

All sales and all persons participating in sales must truly and correctly represent at all times to the public attending such auction the facts in respect to quality of the sale merchandise.

5-14-27. Record of Sales to be Kept.

The licensee in each and every case, where an article is sold for five dollars or more, shall keep a complete record of all such sales made at auction, showing the name and address of each purchaser, a description of each such article sold, including the number thereof, corresponding with the numbers shown upon the inventory on file with the License Department, and the date of each such sale, and the said record shall at all times be open to inspection by the License Department.

5-14-28. Sale Merchandise to be in State for 15 Days.

It shall be unlawful for anyone to sell or offer for sale at auction any merchandise unless the merchandise shall have been with the State of Utah for at least 15 days immediately prior to the sale or offer for sale and the City License shall be given 5 days advance notice of its arrival in Sandy City; provided that livestock shall only be required to be at the location where a sale is held not less than 2 days prior to said auction.

5-14-29. Auction to be on Successive Days.

All auction sales shall be held on successive days, Sundays and legal holidays are excepted.

5-14-30. Sale of Valuable Articles at Certain Hours Prohibited.

It shall be unlawful for sale at auction or sell at auction any gold, silver, plated ware,

clocks, watches, oriental rugs or rugs purported to be from the Middle East or eastern part of the world, diamonds or other precious or semi-precious stones or any imitation thereof, glassware, china, linens, or jewelry or any article purporting to be or represented as any of the above articles between the hours of 6 p.m. and 8 a.m. of the following day.

5-14-31. Receipts for Goods. Commission.

It shall be the duty of all licensed auctioneers to receive all articles which may be offered them for sale at auction, and give receipts therefor; and at the close of any sale, which must be made as the owner directs, the auctioneer shall deliver a fair account of such sale, and pay the amount received for such articles to the person entitled thereto, deducting therefrom a commission not to exceed twenty-five per cent on the amount of such sale.

5-14-32. Prohibited Conduct at Auction Sales.

All auctioneers are forbidden to conduct their sales in such manner as to cause people to gather in crowds on the sidewalks so as to obstruct the same; nor shall they use immoral or indecent language in crying their sales; or make or cause to be made noisy acclamations such as ringing of bells, blowing of whistles or otherwise, though not enumerated here, through the streets in advertising their sales; and no bellman or crier, drum or fife or other musical instrument or noisemaking means of attracting the attention of passersby, except the customary auctioneer's flags, shall be employed or suffered to be used at or near any place of sale or at or near any auction room or near any auction whatsoever.

5-14-33. Licenses to Conform to Other Laws.

Nothing in this chapter shall be deemed to exempt any auction house or auctioneer, or the seller or any goods sold at auction from any license, tax or other ordinance of Sandy City, nor from any of the laws of the State of Utah to which either of them may be subject.

5-14-34. Purchaser's Right to Inspect Merchandise.

- (a) The licensee shall allow prospective purchasers at auctions the opportunity, for a period of not less than three (3) hours just preceding the commencement of the auction sale, to inspect all merchandise offered for sale at any auction.
- (b) It shall be the duty of all licensees to include, as a part of any bulletin, advertisement or other informational publication distributed in connection with any auction, information indicating the right of prospective purchasers to inspect the merchandise offered for sale.

5-14-35. Records of Sales for Valuable Articles.

Any auction house licensee providing auction house facilities for auctioneers of valuable articles as that term is defined in Section 5-14-30 shall, within a period of ten days following the final day of auction of such valuable articles provide the City Licensing Department with complete records of all sales of valuable articles including:

- (a) The names and addresses of all purchasers of all valuable articles at said auction and the date upon which such purchase was made.
- (b) A description of the valuable article purchased and the purchase price paid for such article.
- (c) The name and address of the auctioneer selling such articles and the name and address of the responsible person or entity on whose behalf the auctioneer made such sale.

Chapter 15 PAWNBROKER REGULATIONS

5-15-1. Definitions.

For the purpose of this chapter, the following words shall have the meaning as herein defined:

- (a) **Antique Dealer:** Any person, firm or corporation engaged in the business of buying, selling or exchanging old or archaic items which are indicative of an older culture.
- (b) **Coin Dealer:** Any person, firm or corporation which engages in buying or selling coins having numismatic value.
- (c) **Junk Collector:** Any person, firm or corporation not having a fixed place of business in Sandy City who goes from house to house or place to place gathering, collecting, buying, exchanging, selling or otherwise dealing in old rags, papers, metals or other articles commonly known as junk.
- (d) **Junk Dealer:** Any person, firm or corporation which engages in buying or selling old metals (other than precious metals), glass, rags, rubber, paper or other junk from a fixed place of business. For the purposes of this chapter "junk dealer" shall not include any person defined as a "scrap metal processor".
- (e) **Pawnbroker:** Any person, firm or corporation which loans money on deposit of personal property, or deals in the purchase, exchange or possession of personal property on condition of selling the same back again to the pledgor or depositor, who loans or advances money on personal property by taking chattel mortgage security thereon and takes or receives such personal property into his possession, and who sells unredeemed pledges together with new merchandise as will facilitate the sale of the same.
- (f) **Processor:** Any person, firm or corporation which engages in refining or otherwise altering the form of precious metal not found in a natural state, i.e. raw ore. Processors who deal exclusively with other licensed dealers need not comply with the provisions of Section 5-15-10.
- (g) **Receives:** Acquiring possession, control or title or lending on the security of the property.
- (h) **Scrap Metal Processor:** Any person, firm or corporation who, from a fixed location, utilizes machinery and equipment for processing and manufacturing iron, steel or non-ferrous scrap into prepared grades and whose principal produce is scrap iron, scrap steel or non-ferrous metallic scrap for sale or remelting purposes.
- (i) **Secondhand Dealer:** Any person, firm or corporation who keeps a store, office or place of business for the purchase, barter or exchange or sale of any secondhand merchandise of value, or who engages in the business of dealing in secondhand goods. For the purposes of this chapter, "secondhand dealer" shall not include any person who deals in the purchase, barter, sale or

exchange of used motor vehicles or trailers nor a "scrap metal processor" but shall include any person who buys or sells five or more firearms per year.

(j) Secondhand Precious Metal Dealer Processor and/or Precious Gem Dealer: Any person, firm or corporation which engages in buying, exchanging or selling of gold, silver, platinum or other precious metals or secondhand articles containing any of such metals, secondhand precious gems or any articles containing any precious gems.

5-15-2. New Merchandise Dealer Exemption.

The provisions of this chapter do not apply to any merchant or dealer whose: (1) principal business is the selling of new merchandise and secondhand merchandise is taken in as a trade incident to the sale of new merchandise; or (2) exclusive business is as an antique dealer.

5-15-3. Licensing.

(a) It shall be unlawful for any person, firm or corporation to carry on the business of coin dealer, junk dealer, junk collector, pawnbroker, processor, scrap metal processor, secondhand dealer, secondhand precious metal and/or precious gem dealer without previously having obtained a license to operate in accordance with the provisions of this chapter. A separate license shall be required for each location and for the conduct of business by each dealer.

(b) If, during the license year, there is a change in the information that a person gave in obtaining or renewing a license under this chapter, the person shall report the change to the Sandy City Business Department within thirty (30) days after the change occurs and certify that the information is true and correct under the penalties of perjury.

5-15-4. Application for License.

(a) Each application for a license shall be made on the form the Sandy City License Director requires, and the applicant shall certify that the information given is true and correct under the penalties of perjury.

(b) Each application for a dealer's license shall contain such information as deemed necessary by the Chief of Police of Sandy City and the Sandy City Licensing Director, including, but not limited to, a statement that the applicant authorizes the Sandy City Police Department or any other Category I peace officers to inspect the books, records, inventory, and premises of the business during normal business hours.

(c) Only individuals may apply for a license under this chapter.

(1) If an application for a license is made on behalf of a corporation or a limited partnership, the license shall be applied for by and issued to the president of the corporation or members of the partnership who are authorized to act for it.

(2) If the application is made on behalf of a partnership, the license shall be applied for by and issued to all of the partners who are authorized to act for the partnership. Where any partner is a corporation or a limited partnership, the application shall be made by and issued to

the president of the corporation or members of the limited partnership who are authorized to act for it.

(3) Each individual who applies for a license under this section assumes, as an individual, all responsibilities of the dealer and, as an individual, is subject to all conditions, restrictions and requirements imposed on dealers.

(d) Each individual applying for a license under this chapter shall not be issued a license until such time as the Sandy Police Department has conducted a background investigation on the applicant and recommended favorable consideration of the application. No such applicant may be authorized to conduct any business until his application has been approved by the Sandy Police Department and the applicant has complied with all other licensing and bonding provisions contained in this chapter.

5-15-5. Business Location; Supplemental License.

(a) A person may conduct the licensed business only from the fixed permanent location as specified in the application for the license which shall be other than a motel or hotel room generally used by transients.

(b) A dealer may not remove or relocate the location specified in the license for the business or open any additional location unless the person has applied for and obtained a supplemental license from the Sandy City Business Licensing Department.

5-15-6. Fees.

The license fee for each of the occupations regulated by this chapter shall be established by resolution of the City Council.

5-15-7. Bond.

Before any license is issued for any of the occupations regulated by this chapter, the applicants for such license shall execute and deliver to the City a bond in the sum of \$2,000 executed by a corporate surety authorized to do business in the State of Utah and conditioned upon the faithful performance of such licensee of all ordinances of Sandy City respecting these occupations.

5-15-8. Grounds for Refusal, Suspension, Revocation of License.

The Sandy City Business Department may refuse to grant a license under this chapter and may suspend, revoke, or refuse to renew the license of any person if it finds;

(a) The person has violated or is attempting to violate any provisions of this chapter.

(b) A similar license issued to the person has been suspended, revoked or refused in another jurisdiction for a reason which would justify such an action under this section.

(d) Any officer, manager, agent or employee of the individual or dealer has violated or is

attempting to violate any provisions of this chapter unless the individual or dealer:

(1) had no knowledge of the wrongful conduct and in the exercise of reasonable diligence could not have known of the conduct; and

(2) was unable to prevent the violation or attempted violation with the exercise of reasonable diligence.

(e) The person or dealer has been convicted of theft or receiving stolen property on one or more occasions within the past five (5) years.

5-15-9. Hearing; Appeals.

Before revoking, suspending or refusing to grant or renew any license, the Business Licensing Department shall afford the applicant, employee or dealer an opportunity for a hearing to show cause why a license should not be revoked, suspended or refused in accordance with the provisions of business licensing.

5-15-10. Recordkeeping - Requirements Generally.

(a) It is unlawful for any person licensed by this chapter to fail to use a standardized pawn card format specified by the Sandy City Police Chief using computer software approved by the Chief of Police, which the licensee shall use to enter at the time of purchase, in the English language:

(1) The name, date of birth, address and physical description of the person selling the secondhand property;

(2) The driver's license number or any other positive form of identification containing a numerical identifier and a photograph of the person selling the secondhand property;

(3) The date and time of the transaction;

(4) The identification of the person making the record of entry;

(5) A description of the item purchased or obtained by the dealer, including, but not limited to, a description of the metallic composition, any jewels, stone or glass, and a listing of all numbers, marks, monograms, trademarks, manufacturer's names, serial numbers, and any other marks of identification appearing on the item;

(6) The weight of the item or items, where payment is based on weight; and

(7) The consideration paid for the item or, if pawned, the amount of money loaned or advanced.

(b) Notwithstanding the foregoing paragraph, pawnbrokers, secondhand dealers, coin dealers and secondhand precious metal/gem dealers who process fewer than 25 transactions per

week may request written permission from the Chief of Police to use a noncomputerized alternative standardized format written in ink in a legible manner specified and approved by the Chief of Police for reporting the information required in subsection (a) at the time of purchase.

(c) In addition to the requirements of subsection (a) of this section, a pawnbroker, secondhand dealer, coin dealer and a secondhand precious metal/gem dealer shall also obtain and keep the following:

(1) A written certificate, on forms prescribed by the Chief of Police, that the person delivering the property has the legal right to sell such property and produces at least one positive form of identification containing a numerical identifier and a photograph;

(2) If the value of the property exceeds ten dollars, the secondhand dealer, pawnbroker, coin dealer, secondhand precious metal/gem dealer, or persons receiving said property, shall also require the seller or person delivering the property, whether known or not, to give a legible print, preferably the right thumb, at the bottom of the certificate next to his signature;

(3) Signature of the purchasing agent who received the property from the person whose name is on the card as the pawnor or seller.

(d) All records of all dealers defined in this chapter as well as every article or thing pawned, pledged, sold or deposited shall be open to inspection by any peace officer as defined by Section 77-1a-1, Utah Code Annotated (1953, as amended).

(e) Each licensee under this chapter shall deliver a legible and accurate copy of the record to the Chief of Police at the close of each business day except that the records regarding merchandise purchased from other dealers need not be so submitted, but shall be retained by the dealer at his place of business for inspection by any Category I peace officer.

(f) No entry in this record shall be erased, obliterated or defaced.

5-15-11. False Statements.

Any dealer who, in making his statement as contemplated in this chapter in selling, offering or trying to sell any item described in this chapter, wilfully makes a false statement or gives untrue information, shall be guilty of a class B misdemeanor.

5-15-12. Property to be kept Thirty Days.

(a) It shall be unlawful for any person licensed under this chapter to sell, change (except for customary testing), take apart, destroy, obliterate identification marks, or dispose of any secondhand property purchased or obtained by a dealer until 30 days have elapsed from the date of compliance with the reporting requirements of Section 5-15-10.

(b) All secondhand property purchased or obtained by a dealer shall be stored at the business location until 30 days have elapsed from the date of compliance with the reporting requirements

of Section 5-15-10, or for such additional time as to any specific item or items as may be directed by the Chief of Police or his designee. All items being so stored shall be segregated from other items and shall be identified by a tag attached to the property numbered in a manner to correspond with the number of the transaction description in the business records required to be kept by Section 5-15-10. Items purchased in bulk may be tagged in bulk. Items may be stored at other locations in Sandy City approved by the Chief of Police. The dealer shall produce these items at the business location within one hour of a request to do so by a Category I peace officer. Where compliance is impossible because of the close of business hours, the item shall be produced within one hour of the opening of business on the next business day.

(c) The requirements of subsections (1) and (2) shall not be applicable to any unidentifiable secondhand precious metals which have been inspected and received written clearance for earlier disposition by the Chief of Police or his designee.

(d) The Chief of Police may, by written directive, modify the holding, record keeping or reporting requirements of this section as they pertain to gold and silver coins.

5-15-13. Police Holds.

In the event that it is determined by any police agency that any property at the business location may be stolen or may otherwise be evidence of a crime, any Category I peace officer may in person or by phone contact the business and put a "Police Hold" on the item or items. At that time, the dealer shall segregate the item or items from other items and shall identify them by a tag identifying that item as being on hold for the respective police department. That item will be retained in that status until a police agency seizes the item or notifies the dealer that it can be released but no longer than 90 days. If seizure has not been made within 90 days, the police agency may place another 90-day hold on the item if necessary and upon notification to the dealer.

It will be the responsibility of the dealer to have the item so identified stored separately from all other merchandise, to have it tagged properly and clearly as a "Police Hold" item, and the tag shall identify the agency, the police officer and the police case number. The dealer will also notify the Chief of Police or his designee of any item being put on hold by any officer from an agency other than Sandy City within 1 business day of the agency placing the item on "Police Hold."

5-15-14 Receiving Stolen Items.

(a) A person commits theft if he receives, retains, or disposes of the property of another knowing that it has been stolen, or believing that it probably has been stolen, or who conceals, sells, withholds or aids in concealing, selling or withholding any such property from the owner, knowing the property to be stolen, with a purpose to deprive the owner thereof.

(b) The knowledge or belief required for paragraph (a) is presumed in the case of an actor who:

(1) Is found in possession or control of other property stolen on a separate occasion;

or

(2) Has received other stolen property within the year preceding the receiving offense charged; or

(3) Being a dealer in property of the sort received, retained, or disposed, acquires it for a consideration which he knows is far below its reasonable value.

(4) Is a pawnbroker, dealer, collector or processor or an agent, employee or representative of the pawnbroker, dealer, collector, or processor and fails to require the seller or person delivering the property to certify, in writing, that he has the legal rights to sell the property, or, if the value given for the property exceeds \$10, fails to obtain a legible print, preferably the right thumb, at the bottom of the certificate next to his signature and at least one other positive picture form of identification as required in Section 5-15-10.

A. Every pawnbroker, dealer, collector or processor, and every agent, employee or representative of the pawnbroker, dealer, collector or processor who fails to comply with the requirements of 5-15-10 shall be presumed to have bought, received or obtained the property knowing it to be stolen or unlawfully obtained. This presumption may be rebutted by proof.

B. When in a prosecution under this section it appears from the evidence that the defendant was a pawnbroker, dealer, collector or processor, or was an agent, employee, or representative of a pawnbroker, dealer, collector or processor, that the defendant bought, received, concealed or withheld the property without requiring the person from whom he bought, received, or obtained the property to sign the certificate required in Section 5-15-10 and in the event the transaction involves an amount exceeding \$10 also place his legible print, preferably the right thumb, on the certificate, then the burden shall be upon the defendant to show that the property bought, received or obtained was not stolen.

(c) As used in this section:

(1) "Receives means acquiring possession, control or title or lending on the security of the property.

5-15-15 Stolen Goods.

It shall be the duty of every licensee to report to the Sandy City Police Department any article pledged with or sold, pawned or deposited, or which is sought to pledge with him, or sold, pawned or deposited, if he shall have reason to believe that the article was stolen or lost, and found by the person attempting to pledge it or sell it in the case of a lost article.

5-15-16 Proscribed Sellers.

It shall be unlawful for any licensee under this chapter, his agent, servants or employees to receive or purchase any goods, article or thing in pawn, pledge or sale from a person who is intoxicated, known to be an habitual drunkard or drug user, a thief or an insane person or from a

person under the age of 18 years.

5-15-17 Employees.

It shall be unlawful for any licensee under this chapter to employ any person under the age of 18 years to receive any pledge or make any loan.

5-15-18 Licensee Responsible for Acts of Employees.

The holder of a license under this chapter is liable for any and all acts of his employees and for any violation by them of the provisions of this charter.

5-15-19 Barrier Required Around Open Storage.

It shall be unlawful for the owner of, occupant of, or person having control of any lot, yard or any other premises within the City limits to keep, collect, permit, maintain or store in the open thereon, any metal, glass, bottles, rags, cans, sacks, rubber, paper or other articles commonly known as junk or any articles known as secondhand goods, ware or merchandise, without enclosing said lot, yard or premises with a solid visual barrier not less than seven feet high and maintaining said barrier in a good and sightly condition.

5-15-20 Secondhand Dealers--Restrictions.

No person licensed under this chapter as a secondhand dealer shall purchase, barter, exchange or sell any secondhand merchandise other than that of the same type and character which comprise his principal business.

5-15-21 Ordinance Posted.

It shall be unlawful for any person to conduct or transact any business licensed under this chapter unless he shall keep conspicuously posted in his place of business a copy of this ordinance.

5-15-22 Right to Redeem Forfeited Articles--Interest Rates.

It shall be unlawful in all cases in which an article pledged has been forfeited, for a sale or other disposition thereof to be made by the pledgee within the period of six months after the forfeiture of the pledge, unless the period of loan is less than three months; in which case the period of redemption shall be three months.

5-15-23 Vehicles.

Every vehicle used by a junk dealer in the conduct of his business, shall bear thereon, in legible characters, the name and address of the owner and proprietor thereof.

5-15-24 Premises.

Any premises, area or piece or parcel of land licensed and used as a junk yard shall have not more than two entrances and two exits, each of which shall not exceed fifteen feet in width at

the perimeter of the premises. Such premises, areas, pieces of parcels of land shall be enclosed with either a solid nontransparent wall or a fence or link-weave steel wire or combination thereof with a minimum height of seven feet from the ground level excepting for entrances and exits. The fence or wall shall not contain any poster or advertising of any kind excepting one sign of the licensee not exceeding one hundred square feet in size.

5-15-25 Computer Reporting of Information.

The Sandy City Police Department is authorized to transfer the information received pursuant to this chapter into a computer information system and to report the information in such forms as the Chief of Police may determine is useful for law enforcement purposes.

5-15-26 Hours.

It shall be unlawful for any licensee under this chapter to receive or purchase any goods in trade, pawn or pledge or to sell or otherwise dispose of any goods or materials of to keep his place of business open before 9:00 a.m. or after 9:00 p.m. of any day or Sunday.

5-15-27 Connection With Other Business.

It shall be unlawful for any licensee under this chapter to keep or maintain his business in the same room or rooms with any other business whatsoever unless prior approval of the City Council has been obtained. The partition wall separating the licensee's business from any other business must be of solid material and all connecting doors or other openings must be securely closed and locked at all times. Gratings, lattice or similar openwork or contrivance will not be a sufficient partition under the provisions of this ordinance. Patrols must enter and take exit from all licensee's places of business through outside doors and entrances.

5-15-28 Violation.

Violation of any provision of this chapter is a class B misdemeanor.

5-15-29 Severability Clause.

The provisions of this ordinance shall be severable; and if any provision thereof, or the application of such provision under any circumstances is held invalid, it shall not affect any other provision of this ordinance, or the application in a different circumstance.

Chapter 16 HOME OCCUPATIONS

5-16-1. Definitions.

a. Home Occupation: Means a business conducted as an accessory use in a residential zone as defined in and subject to the regulations in the Sandy City Land Development Code §15-13-14 ROSC and as set forth herein.

- b. Business License Coordinator: Means the individual who is responsible for performing the activities of the Business License Section.
- c. Business License Section: Means the Business License Section of the Community Development Department.
- d. Child Day Care: Means continuous care and supervision for five (5) or more children under thirteen (13) Utah Code def. §26-39-102 years of age or children with disabilities under nineteen (19) years of age Utah Code def. §26-39-102 in lieu of care ordinarily provided by parents in their own home for at least four but less than 24 hours a day and for direct or indirect compensation. For purposes of licensing under this chapter child day care does not mean care provided to children by or in the homes of parents, legal guardians, grandparents, brothers, sisters, uncles, or aunts, or as part of the program of an educational institution regulated by the boards of education of this state or by a parochial education or a parochial child care institution.
- e. Department: Means the Community Development Department of Sandy City.
- f. Disability: As defined by §57-21-2 Utah Code Annotated.

5-16-2. Relationship To Ordinances and Regulations.

All Home Occupations shall conform to all fire, building, plumbing, electrical and health codes, the Sandy Land Development Code and all other regulations established by local, state or federal law. The Business Licensing Section shall coordinate the licensing review for all Home Occupations and issue Home Occupation licenses.

5-16-3. Home Occupation License Required.

No person may conduct a business within a residence, the lot upon which it sits or within any of its accessory structures except as a home occupation in compliance with this Chapter. Except as specifically provided by Sandy City Ordinance, it shall be unlawful for any person to engage in or conduct a Home Occupation without having first procured a Home Occupation license from Sandy City, sometimes hereinafter to be called a "license". The license shall be renewed each year.

5-16-4. Transferability.

Home Occupation licenses are not transferable to any other person or to any other location than that which is indicated on the approved application.

5-16-5. Fees.

a. Fees for Home Occupation licenses shall be established by resolution of City Council. All applicants for licenses shall pay the required fee unless otherwise excepted herein. Failure to pay the required fee shall preclude issuance or renewal of a license and may be cause for suspension or revocation.

b. Any Home Occupation that has or will have annual gross receipts below \$1,000.00, shall be licensed but shall not be required to pay license fees. Proof of eligibility for

the fee exemption is required by providing copies of federal or state tax returns.

c. The Business Licensing Coordinator may waive certain Home Occupation license fees for persons with disabilities to assist them to become self sufficient pursuant to policies established by the Department.

5-16-6. Licensing Procedure.

In addition to the hearing requirements established for Conditional Uses in the Land Development Code, the License Coordinator may require additional hearings or approval for the aggregate effect more than one Home Occupation located within the same dwelling.

a. An applicant for a Category I Permitted Home Occupation shall submit an application therefor to the Business License Section on a form to be supplied by the Business License Section.

b. An applicant for a Category II Conditional Use Home Occupation must first obtain a Conditional Use Permit and must then submit an application for a Home Occupation license to the Business License Section on a form to be supplied by the Business License Section.

c. The applicant shall attest to compliance with all the requirements for Home Occupations as set forth above.

d. The Business License Section will request recommendations of approval or denial of, the Home Occupation License from the City departments, Boards and Commissions, and/or County, State or Federal agencies it determines appropriate.

e. Recommendation for approval or denial of a license application, should be returned by the several departments to the Business License Section within thirty (30) days of the request thereof, and conditions as set by Planning Commission should be returned within thirty (30) days after the first available Planning Commission hearing, unless the matter is continued for further review. After receiving appropriate recommendations, the Business Licensing Section shall either deny the license application, set the matter before the hearing officer, or issue a license.

5-16-7. Issuance or Denial of License.

Granting of a license under the provisions of this ordinance shall not be considered or deemed a right and, if granted, inures to the benefit of the applicant only as a privilege temporarily granted. The City reserves the right to deny any application for a license described herein. If the Business License Coordinator finds that any applicant does not meet the requirements of or is disqualified under any section herein, or if it is found that the application is deficient in any way, or any of the facts provided thereon are false or in question, the application shall be denied or the license revoked.

5-16-8. Grounds for Denial, Suspension or Revocation of a Home

Occupation License.

a. Any Home Occupation license requested or granted pursuant to this section may be denied, suspended or revoked by the Business License Coordinator pursuant to procedures established herein for the following:

1. Violation on the licensed premises of any of the provisions of this section;
or
2. Violation by the applicant or employees of any other Sandy City, Salt Lake County, State or federal laws governing the operation of the Home Occupation; or
3. Applicant/licensee supplied false or misleading information when applying for a Home Occupation license; or the applicant withheld relevant information on any application for any use or suffered or caused another to furnish or withhold such information on his or her behalf; or
4. The owner, employee or operator of the business has violated any of the provisions of the Business License or Sandy Land Development Code or the Standards, Qualifications or conditions required to obtain the Home Occupation license or the property no longer complies with the Standards, Qualifications or conditions necessary to obtain or maintain a license; or
5. The applicant has failed to pay applicable property tax, sales tax, utility tax, or license tax; or
6. Any conduct or act of the applicant or employees on the premises where the Home Occupation is conducted, where the act is a nuisance, a public nuisance, or a menace to the health, safety, peace or general welfare of the city or its inhabitants; or
7. The applicant/licensee has refused to allow authorized representatives of the City to make an inspection or has interfered with such representatives while in the performance of his duty in making such inspection; or
8. The applicant is not complying with a requirement or condition set forth by the Sandy Land Development Code, Planning Commission or Business License Section, or by agreement; or
9. The Home Occupation was given a recommendation for approval from the Department as a legal nonconforming use and is not complying with any requirement or condition established therefor by previous ordinance or conditions of approval or is in violation of subsections 1- 8 above.
10. Upon good cause, as indicated and requested by any of the Sandy City, Salt Lake County, Utah State or Federal agencies required to supply consent for the Home Occupation license to be issued. Grounds for denial, revocation or suspension of a Home Occupation include violations of any City, County, State or Federal laws or regulations; or

11. Any other reason expressly provided for in this chapter.

b. The Department shall give at least fourteen (14) days prior written notice, mailed or otherwise delivered to the address listed on the application as the address where the Home Occupation is being conducted, of the alleged violation or the manner in which the property no longer complies with the requirements for the Home Occupation, with the opportunity to correct the problem during said time. The fourteen (14) day notice period may be waived or reduced if there is a risk to public health, safety or welfare. Any substantiated, unresolved complaint, regarding the violation of standards, qualifications or application requirements or any of the above violations, which is received and verified by the City, against any Home Occupation licensed under this section, will require that any licenses be revoked and the business cease to operate.

5-16-9. Process for Appeal of Denied, Suspended or Revoked Licenses.

a. In the event a license application submitted pursuant to this Chapter is denied or a license previously issued is suspended or revoked by the Business License Section, the applicant shall be given written notice as to the reasons for such denial, suspension or revocation. The applicant may then submit a written appeal, within fourteen (14) days of mailing of notice of denial, suspension or revocation, to the hearing officer who shall be the, Community Development Director or designee.

b. The applicant must allege that there is an error in the decision or determination made by the Business License Section and the factual and legal basis for such allegation. The applicant has the burden of proving that the Business License Section erred. In order to satisfy its burden, the applicant may submit written material, graphic representations and, if a hearing is held, oral testimony, to which the City will have the opportunity to respond. The Hearing Officer shall review the information submitted by the applicant and the City and may hold a hearing therefor. The Hearing Officer shall then issue a written decision and may make written findings. Written notice shall be given to the applicant within thirty (30) days of the Hearing Officer's decision.

c. The Hearing Officer will review the decision of the Business License Section to determine if there is a rational basis for the Section's decision. If there is a rational basis for the Business License Section's decision, the Hearing Officer shall uphold the decision of the Business License Section. If the applicant so desires, the applicant may further appeal the decision of the Hearing Officer to Sandy City Board of Adjustment within thirty (30) days of the Hearing Officer's decision. In the appeal to the Board of Adjustment, the plaintiff may only allege that the Hearing Officer's decision was arbitrary, capricious, or illegal.

d. If the applicant so desires, the applicant may further appeal the decision of the Hearing Officer to district court within thirty (30) days of the Board of Adjustment's decision. In the appeal to district court, the plaintiff may only allege that the Board's decision was arbitrary, capricious, or illegal.

e. If a Home Occupation license is denied, suspended or revoked, the applicant may

reapply for a new Home Occupation license after the period of suspension or revocation, provided there is complete conformance with all of the current Home Occupation regulations.

Chapter 17 BURGLARY AND ALARM SYSTEMS

5-17-1. Definitions.

- (a) "Alarm Business" means any persons engaged in the business of installing, planning the installation, assisting in the planning or the installation, servicing, maintaining, repairing, replacing, moving or removing alarm systems in Sandy City.
- (b) "Alarm coordinator" means the individual designated by the chief of police to issue permits and enforce the provisions of this title.
- (c) "Alarm dispatch request" means a notification to the police by the alarm business that an alarm, either manual or automatic, has been activated at a particular alarm site.
- (d) "Alarm site" means a single premises or location served by an alarm system or systems. Each tenancy, if served by a separate alarm system in a multitenant building or complex shall be considered a separate alarm site.
- (e) "Alarm system" means any mechanism, equipment, or device which is designated to detect an unauthorized entry into any building or onto any property, or to direct attention to a robbery, burglary, or other emergency in progress, and to signal the above occurrences either by a local or audible alarm or by a silent or remote alarm. The following devices shall not constitute alarm systems within the meaning of this subsection:
 - (1) Alarm devices which are not installed, operated or used for the purpose of reporting an emergency to the police department;
 - (2) Alarm devices installed on a temporary basis by the police department;
 - (3) Alarm devices which do not register alarms that are audible, visible, or perceptible outside the protected premises; and
 - (4) Alarm devices affixed to motor vehicles, unless the vehicle is permanently affixed to the real property at the alarm site.
- (f) "Alarm user" means the person, firm, partnership, association, corporation, company or organization of any kind in control of any building, structure or facility or portion thereof wherein an alarm system is maintained.
- (g) "Answering service" means a telephone answering service providing among its services the receiving on a continuous basis through trained employees of

emergency signals from alarm systems and the subsequent relaying of such messages by a live voice to the police department.

- (h) "Apartment complex" means any building or group of buildings containing two or more rental units.
- (i) "Automatic dialing device" means an alarm system which automatically sends over regular telephone lines, by direct connection or otherwise, a prerecorded voice-message indicating the existence of an emergency situation that the alarm system is designed to detect.
- (j) "Central station" means an office to which alarm systems are connected, where operators supervise the circuits, and where guards and/or servicemen are maintained continuously to investigate signals.
- (k) "Duress alarm" means a silent alarm signal generated by the manual activation of a device intended to signal a crisis situation requiring police response.
- (l) "Emergency" means the commission or attempted commission of a robbery, burglary or other criminal action or the occurrence of a medical event requiring immediate response.
- (m) "Employee" means any person who is employed by an alarm business and who sells, installs, services, maintains, repairs, or replaces alarm systems in the City.
- (n) "False alarm" means the activation of an alarm system which results in an arrival at the alarm site by the police department where an emergency does not exist. It includes an alarm signal caused by conditions of nature which are normal for that area and subject to control by the alarm business operator or alarm user. "False alarm" does not include an alarm signal caused by extraordinarily violent conditions of nature not reasonably subject to control, such as tornadoes, floods or earthquakes.
- (o) "Holdup alarm" means a silent alarm signal generated by the manual activation of a device intended to signal a robbery in progress.
- (p) "Intrusion alarm system" means an alarm system signaling an entry or attempted entry into the area protected by the system.
- (q) "Local alarm" means any noise-making alarm device audible at the alarm site.
- (r) "One Plus duress alarm" means the manual activation of a silent alarm signal by entering at a keypad a code that adds one to the last digit of the normal arm/disarm code [Normal code=1234; One plus code=12345].
- (s) "Permittee" means the person to whom an alarm user permit is issued.
- (t) "Person" means and includes natural persons, without regard to number or gender, and any partnership, corporation, and any other type of legal entity.

5-17-2. Applicability of Provisions.

The provisions of this chapter shall apply to all alarm users, businesses, employees and alarm systems which are installed, connected, monitored, operated or maintained on or prior to the date on which the ordinance codified in this chapter became effective, and subsequent thereto.

5-17-3. Registration Required to Operate Alarm Business.

It is unlawful for any person, partnership, corporation or association to engage in the sale, installation, maintenance, alteration, repair, replacement, servicing, or monitoring of an alarm system in or on any building or other property within the City of any device known as an intrusion or physical duress alarm system, or automatic dialing device connected to an answering service, unless there exists a valid license therefore under the provisions of the Burglar Alarm Security and Licensing Act, Sections 58-65-101 et seq., Utah Code Annotated 1953, as amended, or its successor and the name, address and certificate number or identification number has been registered with the Chief of Police. There shall be no fee for registration with the City under this section.

5-17-4. Alarm User Permits.

(a) Every alarm user shall have in his/her possession an alarm user permit issued by the chief of police at no charge. Such permit shall be issued upon filing by the user or alarm business, with the police department, a completed alarm permit application as provided by Section 5-17-5 or its successor section. A separate permit shall be required for each alarm site. The permit application shall be submitted to the alarm coordinator no later than fifteen (15) days following the alarm installation or following an existing system being taken over by a different alarm user. The alarm user shall be responsible for the maintenance and operation of the alarm system and for the payment of all fees and penalties under this chapter.

(b) It is unlawful to operate an alarm system without an alarm permit.

(c) An alarm user permit shall continue in effect until there is a change in ownership of the alarm system, at which time the permit shall expire. Alarm permits shall not be transferable.

5-17-5. Alarm Permit Application.

(a) An alarm permit application shall be completed and submitted to the police department's alarm coordinator by the user and/or by the alarm business prior to the operation of an alarm system.

(b) The permit application shall set forth the full name, address and telephone number of both the owner or lessee on whose premises the system will

be installed, operated, connected, monitored or maintained, and the name of the licensed alarm system business installing, monitoring, maintaining or servicing the system, as well as the type of system to be installed, operated or maintained. The persons listed shall have authority to act for the alarm user in granting peace officers access to any portion of the premises concerned and shall be knowledgeable in the basic operation of the alarm system. The alarm permit application shall contain such additional information as the chief of police shall reasonably deem necessary to properly identify and locate the user, the alarm business installing, servicing, monitoring or maintaining the alarm system, and the persons to be contacted in the event of the filing of an alarm report.

(c) A penalty service fee may be assessed upon a user when the peace officers responding to an alarm are unable to contact any of the listed parties due to outdated or inaccurate information provided by the user. The penalty service fee shall be determined by treating any such failure by a user as if it were a false alarm; as provided in Section 5-17-7 or its successor section, and may be considered as an additional false alarm for the purpose of computing fees. In addition, the Chief of Police may, at his/her discretion, choose not to provide police response to any further alarms at an alarm site in the event an alarm user fails to comply with this section.

5-17-6. User Instructions.

(a) Every alarm business selling, leasing or furnishing to any user an alarm system which is installed on premises located in the area subject to this chapter shall furnish the user with written instructions and training that provide information to enable the user to operate the alarm system properly and to avoid false alarms. Written operating instructions, and the phone number of the monitoring station, shall be maintained at each alarm site. The alarm business shall notify the alarm user of the permit requirements.

(b) After March 31, 1998, no alarm business shall program alarm systems so they are capable of sending One Plus duress alarms. Alarm businesses may continue to report One Plus duress alarms received from alarm systems programmed with this feature prior to March 31, 1998; however, after that date, when performing a takeover or conversion, an alarm business shall remove the One Plus duress alarm capability from the alarm system being taken over or converted.

5-17--7. False Alarms.

(a) Permit holders shall be responsible for false alarms caused by anyone with authorized access to the premises. Revocation of a user permit shall be in accordance with the license revocation provisions specified in Section 5-2-10(d) of City Ordinances, or its successor chapter. A hearing officer at a revocation proceeding shall have authority to suspend a user permit in lieu of revocation in

appropriate cases. Any city alarm user whose permit is suspended or revoked by the City shall pay a reinstatement of one hundred dollars to the City before such permit shall be reinstated or reissued.

(b) A service fee is imposed for false alarms on a physical duress or intrusion alarm system to which a peace officer responds. The fee is assessed on the user of the alarm system for each false alarm after four false alarms in any twelve-month period. The amount of the fee is one hundred dollars for each alarm after four false alarms in any twelve-month period.

(c) All penalties assessed under this chapter shall be due and payable on the date written notice of any penalty due is issued by the City. If any penalty is not paid within 90 days of the due date, the City may use such lawful means as are available to collect such penalties. In the event the City files an action in court to recover such penalties, the City shall be entitled to recovery of its costs and attorney's fees in addition to the penalties due and owing.

(d) The alarms coordinator may implement a false alarm prevention course to be made available to the public on a monthly basis at no cost. The course shall inform alarm users of problems created by false alarm dispatches and how users may operate an alarm system without generating false alarm dispatches. Users who complete the course shall receive a service fee credit for one false alarm. No permittee shall be entitled to take such course and receive such service fee credit more than once.

5-17-8. Apartment Complex Alarm Systems.

(a) If an alarm system installed, or caused to be installed, by any tenant in an apartment complex is monitored by an alarm business, the tenant shall provide the alarm coordinator the name of a representative of the apartment complex owner or property manager who can grant access to the rental unit by police officers responding to an alarm dispatch. Such tenant shall obtain an alarm permit from the alarm coordinator before operating or causing the operation of an alarm system in the tenant's rental unit.

(b) A tenant which has contracted with an alarm business to monitor an alarm system at the tenant's alarm site shall be responsible for false alarm dispatches emitted from the alarm system at such alarm site.

5-17-9. Deliberate False Alarms.

(a) No person shall cause to be transmitted any intrusion or physical duress alarm knowing the same to be false or without basis in fact.

(b) The following shall be presumed to be unintentional alarms:

(1) emissions of malfunction signals from monitoring equipment; and

- (2) repeated false alarms from the same site within a reasonable period.

5-17-10. Local alarm system - When Cutoff Required.

Burglary, robbery or other emergency alarm systems which use a local audible or visual alarm device to attract the attention of the public shall be equipped with an automatic device which will terminate the audible or visual alarm within ten minutes.

5-17-11. Police Call Records.

Alarm businesses who request police response to alarm signals shall maintain a record of all police calls, stating the time, date and location of the alarm and the name, address and phone number of the alarm user. The records shall indicate the cause of the alarm, if known. This record shall be current and shall be made available to the Chief of Police or the chief's designated representative at any time during normal business hours.

5-17-12. Administration and Enforcement.

The provisions of this chapter shall be administered and enforced by the Chief of Police. The Chief of Police, or his or her authorized representative, which may be the Chief Building Inspector, is authorized to make inspections of burglary, robbery and other emergency alarm systems and of the premises wherein said devices or systems are located. Such individual shall have authority at reasonable times and upon oral notice to enter upon any premises within the City to undertake such inspections and to determine whether such systems are being used in conformity with the provisions of this chapter.

5-17-13. Operational Defects to be Remedied.

Alarm users and alarm businesses are required to insure that sensory mechanisms used in connection with the robbery, burglary or other emergency alarm systems have been adjusted to suppress false alarms, so that the device will not be actuated by impulses due to transient pressure changes in water pipes, short flashes of light, wind noises such as the rattling or vibrating of doors or windows, vehicular noise adjacent to the installation, or other forces unrelated to genuine alarms.

5-17-14. Automatic Dialing and Prerecorded Message Alarm Systems Unlawful.

- (a) It is unlawful to maintain, operate, connect, or allow to be maintained, operated or connected, any automatic dialing device which automatically dials the police department and then relays any prerecorded message to report any robbery, burglary or other emergency.

5-17-15. Violation Penalty.

- (a) Notwithstanding any other provision in this chapter, failure of any person to comply with the requirements of this chapter shall constitute an infraction and shall be punishable by law as set forth in Section 1-2-2 of these Ordinances, or its successor section.
- (b) In addition to other penalties provided in this chapter, failure by an alarm user or an alarm business to pay any penalty within 120 days of the due date shall constitute grounds for suspension or revocation of an alarm user permit. All service fees assessed under this chapter are due and payable on the date written notice of any fee due is issued by the City. If any service fee is not paid within thirty days of the due date, a penalty of ten dollars shall be added to each one hundred-dollar service fee so unpaid. If any service fee is not paid within sixty days of the due date, an additional penalty of ten dollars shall be added to each one hundred-dollar service fee so unpaid, for a total penalty of twenty dollars. If any service fee is not paid within ninety days of the due date, an additional penalty of ten dollars shall be added to each one hundred-dollar service fee so unpaid, for a total penalty of thirty dollars. If any service fee is not paid within one hundred twenty days of the due date together with all applicable penalties, the City may use such lawful means as are available to collect such fee, including all penalties, costs and attorneys' fees.

5-17-16. Appeal Procedure.

- (a) Any alarm user may appear before the alarm coordinator and present and contest the assessment of any penalty. The burden to prove any matter shall be upon the person raising such matter.
- (b) If the alarm coordinator finds that no violation of this chapter occurred, or that a violation occurred but one or more of the defenses set forth in this section is applicable, the alarm coordinator may dismiss the penalty and release the alarm user from liability thereunder, or may reduce the penalty associated therewith as he or she shall determine. Such defenses are:
 - (1) The false alarm for which the penalty has been assessed did not originate at the premises of the alarm user who has been assessed the penalty.;
 - (2) The alarm for which the penalty has been assessed was, in fact, not false, but was rather the result of an actual or attempted burglary, robbery, or other emergency.
 - (3) The police dispatch office was notified by the permit holder or the alarm business that the alarm was false prior to the arrival of a police officer to the alarm site in response to the false alarm; or
 - (4) Such other mitigating circumstances as may be approved by the City

law department.

(c) If the alarm coordinator finds that a false alarm did occur and no applicable defense exists, the alarm coordinator may, in the interest of justice and on behalf of the City, enter into an agreement for the timely or periodic payment of the applicable penalty.

(d) Any decision made by the alarm coordinator under this section may be appealed to the Chief of Police.

Chapter 18 ESCORT AGENCIES, OUTCALL SERVICE AGENCIES, AND SEMI-NUDE DANCING AGENCIES

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5-18-1 AFFECTED BUSINESSES

The Sandy City (“City”) Council finds that escort agencies, outcall service agencies, and semi-nude dancing agencies seriously affect the economic, social and moral well being of the city and its residents, that such businesses must be regulated strictly for the welfare of the public, and that such businesses must therefore comply with this chapter.

5-18-2. DEFINITIONS.

For the purpose of this chapter the following words shall have the following meanings:

“Agency” means an escort agency, outcall service agency, or a semi-nude dancing agency.

“Business License Authority” means the business license section of the City’s Community Development department.

"Escort" means a person who, for pecuniary compensation, dates, socializes, visits, consorts with or accompanies or offers to date, consort, socialize, visit or accompany another or others to or about social affairs, entertainment or places of amusement or within any place of public or private resort or any business or commercial establishment or any private quarters. "Escort" shall not be construed to include persons who provide business or personal services such as licensed private nurses, aides for the elderly or handicapped, social secretaries or similar service personnel (1) whose relationship with their patron is characterized by a bona fide contractual relationship having a duration of more than twelve (12) hours or (2) who provide a service not principally characterized as dating or socializing. "Escort" shall also not be construed to include persons providing services such as singing telegrams, birthday greetings or similar activities characterized by appearances in a public place, contracted for by a party other than the person for whom the service is being performed and of a duration of not longer than one (1) hour.

“Escort agency” means any person who, for a fee, commission, hire, or profit, furnishes or arranges for escorts to accompany other persons for social engagements.

“Outcall service agency” means any person which furnishes, books, or otherwise engages or offers to furnish, book or otherwise engages outcall services.

“Outcall services" means services performed for pecuniary compensation and of a type generally performed within a sexually oriented business but performed outside of the premises of the sexually oriented business. Outcall services are prohibited in public places.

"Person" means any individual, agency, firm, unincorporated association, corporation, partnership or other legal entity. For purposes of this chapter, a person who operates an agency also includes each officer, director and shareholder owning 10% of the stock or beneficial ownership if the agency is a corporation, and each partner, including limited partners, if the agency is a partnership.

“Public places” means any location within the City frequented by the public, or where the public is present or likely to be present, or where a person may reasonably be expected to be observed by members of the public.

"Semi-nude dancing agency" means any person which furnishes, books, or otherwise engages or offers to furnish, book or otherwise engage the service of a professional dancer for performance or appearance at a sexually oriented business.

5-18-3. LICENSE REQUIRED.

It is unlawful for any person to operate an agency, be employed by an agency, or perform escort or outcall services, within the City, without first obtaining a valid license from the business license authority.

5-18-4. ZONING.

It is unlawful for any agency to do business at any location within the City not zoned for such business. Agencies shall not be permitted as a home occupation.

5-18-5. LICENSE APPLICATION ; DISCLOSURE.

All persons applying for any license required under this chapter shall:

- a. Pay the required fee.
- b. File a written application with the business license authority on a form to be provided by the business license authority to include the following as applicable :
 - 1) the complete name of each person, including the date and state of incorporation
 - 2) the date of birth
 - 3) the complete residence and business address, not by post office box, and previous residence and business addresses for a period of 3 years immediately prior to the date of application
 - 4) a complete set of fingerprints.
 - 5) height, weight, color of eyes, color of hair
 - 6) business, occupation or employment history for 5 years immediately preceding the date of application including, but not limited to, whether such person previously operated under any permit or license in another city in this state or another state and whether any such permit or license had ever been suspended or revoked
 - 7) any convictions, including pleas of guilty or nolo contendere in any state or federal court within the past 10 years, including municipal ordinance violations, exclusive of traffic violations, with a brief statement of the nature of the convictions and the jurisdiction in which the convictions occurred.
 - 8) any pending criminal charges in any state or federal court, with a brief statement of the nature of the pending charges and the jurisdiction in which the charges are pending.
 - 9) the name and address of persons who will have custody of the business records at the business location.
 - 10) the name and address of the person who will be the agent for service of process.
 - 11) a description of the nature and scope of the proposed business or services.

5-18-6. ADDITIONAL LICENSE REQUIREMENTS TO PERFORM ESCORT OR OUTCALL SERVICES

In addition to the requirements under section 5 of this chapter, all persons performing escort or

outcall services shall provide to the business license authority:

- a. Two passport-size color photographs at least one inch by one inch taken within 3 months of the date of application.
- b. The name and address of the business, if any, at which the applicant is currently working or at which the applicant expects to be employed.
- c. A certificate from the Salt Lake City-County Health Department, stating that the applicant has, within 30 days immediately preceding the date of the application, been examined and found to be free of any contagious or communicable disease;

5-18-7. LICENSE FEES.

The initial license and annual renewal fees for any license required under this chapter shall be as set by resolution passed by the Sandy City Council.

5-18-8. GRANTING OF LICENSE ; REVOCATION, SUSPENSION

- a. The business license authority may refuse to grant any license and may suspend, revoke or refuse to renew any license issued under this chapter if it finds:
 - 1) The applicant is under eighteen (18) years of age or any higher age, if the license sought requires a higher age.
 - 2) The required fee(s) have not been paid.
 - 3) The application does not conform in all respects to this chapter.
 - 4) The applicant has knowingly made a material misstatement in the application.
 - 5) The agency or the services as proposed by the person would not comply with all applicable local, state and federal laws, including but not limited to the city's building and zoning regulations.
 - 6) The person has had an agency license or permit or service license or permit or other similar license or permit revoked or suspended in this state or any other state within 3 years prior to the date of application.
 - 7) The person has at the time of the application a pending criminal charge, or within 5 years prior to the date of application has been convicted of, has pled guilty or nolo contendere to, any specified criminal activity as defined under Sandy City Ordinance 12-2-1 et seq. or any offense involving dishonesty, fraud, deceit, robbery, the use or threatened use of force or violence upon the person of this state or any other state.
 - 8) The person, if a corporation, is not licensed to do business or is not in good standing in the state of Utah.
 - 9) For good cause shown.

- b. Before a license may be suspended or revoked, the business license authority shall afford the person an opportunity for a hearing to show cause why such license should not be suspended or revoked.

5-18-9. LICENSE LIMITATIONS.

- a. Each license shall remain valid from the date of issuance through January 1st of each succeeding year unless otherwise suspended or revoked. Such license may be renewed only by making a new application and payment of a fee as provided in section 5 and section 7. The license fees shall not be prorated for any portion of a year but shall be paid in full for whatever portion of the year the license is applied for. Application for renewal should be made at least thirty (30) days before the expiration date, and when made less than thirty (30) days before the expiration date, the expiration of the license will not be affected.
- b. Any change in the information required to be submitted for any license required under this ordinance shall be given, in writing, to the business license authority within fourteen days after such change.
- c. Any license granted under this chapter shall not be transferable.
- d. Each application for an agency license under this chapter shall post with the business license authority a cash or corporate surety bond payable to Sandy City Corporation in the amount of two thousand dollars. Each application to perform escort or outcall services under this chapter shall post with the business license authority a cash or corporate surety bond payable to Sandy City Corporation in the amount of five hundred dollars. Any fines assessed for violations of City ordinances shall be taken from this bond if not paid in cash within ten (10) days after notice of the fine unless an appeal is filed as provided by this chapter. In the event that funds are drawn against the cash or surety bond to pay such fines the bond shall be replenished to two thousand dollars within fifteen days of the date of notice of any draw against it.
- e. It is unlawful for any agency to fail to display the license granted pursuant to this ordinance in a prominent location within the business premises. It shall be unlawful for any individual licensed pursuant to this ordinance to fail to, at all times while engaged in licensed activities within the corporate boundaries of the city, carry their license on their person. When requested by police, City licensing or other enforcement personnel or health official, it is unlawful to fail to show the appropriate licenses while engaged in licensed activities within the corporate boundaries of the City.
- f. It is unlawful to conduct business under a license issued pursuant to this ordinance at any location other than the licensed premises. Any location to which telephone calls are automatically forwarded by said business shall require a separate license. It is unlawful to do business under any name other than the business name specified in the application.

5-18-10. OPERATIONAL RESTRICTIONS FOR ESCORT AND OUTCALL SERVICES

All persons licensed pursuant to this chapter shall :

- a. Provide to each patron a written contract in receipt of pecuniary compensation for escort

or outcall services. The contract shall clearly state the type of services to be performed, the length of time such services shall last, the cost to the patron and any special terms or conditions relating to the services performed. The contract need not include the name of the patron. The person shall keep and maintain a copy of each such written contract for a period not less than one year from the date of provision of services thereunder. The contracts shall be numbered and entered into a register listing the contract number, date, names of all employees involved in the contract and pecuniary compensation paid.

- b. Maintain an open office or telephone, regardless of the primary location of the business, at which the person's designated agent may be personally contacted during all hours such services are being provided. The address and phone number of the office location shall appear and be included in all patron contracts and published advertisements.
- c. Permit the police department, or other City official, to have access at all times to all premises licensed or applying for a license under this chapter and to make periodic inspection of said premises.

5-18-11. VIOLATIONS; PENALTIES.

In addition to revocation or suspension of a license, each violation of this chapter shall, upon citation by the business license authority, require the person to pay a civil penalty in the amount of \$500.00, to be deducted from the cost bond required pursuant to this chapter. In addition to any civil fines, the violation of any provision of this ordinance shall be a class B misdemeanor. Each day of violation shall be considered a separate offense. In addition to the civil and criminal penalties provided herein, any person who violates any provision of this chapter is subject to a suit for injunction and any other remedy available at law or in equity.

5-18-12. APPLICABILITY TO EXISTING REGULATIONS.

- a. The provisions of this ordinance shall be applicable to all persons described herein whether the herein-described activities were established before or after the effective date of this chapter and regardless of whether such persons are currently licensed to do business in the City. All such persons shall have forty-five days from the effective date of this chapter, or until their current license expires, whichever is first in time, to comply with the provisions of this chapter.
- b. Except where the context or specific provisions require, this ordinance does not supercede or nullify any other City ordinance.

5-18-13. SEVERABILITY.

In the event that any provision of this chapter is declared invalid for any reason, the remaining provisions shall remain in effect.

Endnotes

1 (Popup - Popup)

Boulder Mountain Lodge v. Town of Boulder, 373 Utah Adv. Rep. 5 (SC, 7/16/99), Denial of consent for liquor license affirmed - town had statutory power to withhold consent and thereby deny right to license.

2 (Popup - Popup)

Qualifications for individuals "aggrieved" and scope of review discussed in S&G, Inc. v. Morgan, 797 P.2d 1086 (Utah 1990).